

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[CGD08-05-010]

**Drawbridge Operation Regulations; Gulf Intracoastal Waterway—Bayou Boeuf, Amelia, LA****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the BNSF RR Swing Bridge across Bayou Boeuf, mile 10.2, at Amelia, St. Mary Parish, LA. This deviation allows the bridge to remain closed to navigation for six hours per day Monday through Thursday from February 28 until March 31, 2005. The deviation is necessary to remove and replace the cross ties on the bridge.

**DATES:** This deviation is effective from 7 a.m. on Monday, February 28, 2005 until 1 p.m. on Thursday, March 31, 2005.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 500 Poydras Street, New Orleans, Louisiana 70130-3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The BNSF RR has requested a temporary deviation in order to remove and replace the cross ties of the Bayou Boeuf Swing Bridge across Bayou Boeuf, mile 10.2, at Amelia, St. Mary Parish, LA. The repairs are necessary to ensure the safety of trains crossing the bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 7 a.m. until 1 p.m. Monday through Thursday from February 28, 2005 until March 31, 2005. The bridge may be opened to pass vessels in an emergency after personnel are cleared from the bridge.

As the bridge has no vertical clearance in the closed-to-navigation position, vessels will not be able to transit through the bridge site when the bridge is closed. Navigation at the site of the bridge consists mainly of tows with barges and some recreational pleasure craft. Due to prior experience, as well as coordination with waterway users, it has been determined that this closure will not have a significant effect on these vessels.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 24, 2005.

**Marcus Redford,***Bridge Administrator.*

[FR Doc. 05-1762 Filed 1-31-05; 8:45 am]

**BILLING CODE 4910-15-P****DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[COTP SAN JUAN 05-005]

**RIN 1625-AA87****Moving and Fixed Security Zone: Port of Fredericksted, Saint Croix, U.S. Virgin Islands****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary moving and fixed security zone around cruise ships entering, departing, mooring or anchoring at the Port of Fredericksted in Saint Croix, U.S. Virgin Islands. This temporary final rule is a security measure designed to protect cruise ships at this port. All vessels, with the exception of cruise ships, are prohibited from entering the moving and fixed security zone around a cruise ship without the express permission of the Captain of the Port San Juan or a designated representative.

**DATES:** This rule is effective on January 29, 2005, at 5 a.m., until July 23, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP San Juan 05-005 and are available for inspection or copying at Prevention Command Office, San Juan, #5 La Puntilla Final, Old San Juan, PR 00901-1800, between

7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Junior Grade Katuska Pabon, Prevention Command San Juan at (787) 729-5381.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to the public interest. Immediate action is needed to protect the public, ports and waterways of the United States from potential subversive acts against cruise ships at the Port of Fredericksted.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

**Background and Purpose**

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched from vessels in close proximity to cruise ships entering, departing, mooring or anchoring at any port of call. Following these attacks, national security and intelligence officials have warned that future terrorists attacks are likely and may include maritime interests such as cruise ships. The Captain of the Port San Juan is reducing this risk by preventing unauthorized vessels from entering the moving and fixed security zone around a cruise ship entering, departing, anchoring or mooring at the Port of Fredericksted without the authorization of the Captain of the Port San Juan or designated representative. Concurrent with this temporary final rule, the Coast Guard is promulgating a Notice of Proposed Rulemaking (NPRM), COTP San Juan 05-002, to make these regulations permanent security measures for the Port of Fredericksted and allow public comment on them.

Captain of the Port San Juan can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz), or by telephone number (787) 289-0739. The United States Coast Guard Communications Center will notify the public via Broadcast Notice to Mariners VHF Marine Band Radio, Channel 22,

when a moving and fixed security zone is activated around a cruise ship at Fredericksted.

#### Discussion of Rule

This temporary final rule is a security measure to protect cruise ships entering, departing, mooring or anchoring at the Port of Fredericksted, St. Croix, U.S. Virgin Islands. The moving and fixed security zone that surrounds a cruise ship is activated when an arriving cruise ship is within one nautical mile of the west end of the Fredericksted Pier and is deactivated when a departing cruise ship is beyond one nautical mile from the west end of the Fredericksted Pier. All vessels are prohibited from entering the fixed and moving security zone that extends in a 50-yard radius around a cruise ship without the express permission of the Captain of the Port San Juan when the zone is activated.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this security zone to be minimal, because entry into the security zone is prohibited for a limited time. Additionally, vessels may be allowed to enter the security zone with the express permission of the Captain of the Port San Juan or designated representative.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic effect upon a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor at the Port of Fredericksted, St. Croix, U.S. Virgin Islands, when a fixed or moving

security zone around a cruise ship is in effect. This rule will be in effect for a limited time. Vessels may be allowed to enter the security zone with the express permission of the Captain of the Port San Juan or a designated representative. Finally, we will issue maritime advisories that will be widely available when we expect a security zone to go into effect.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a "significant energy action" under that order, because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use

voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design or operation; test methods; sampling procedures; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” (CED) are not required for this rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From January 29, 2005, at 5 a.m., until July 23, 2005, add a new temporary § 165.T07–05–005 to read as follows:

#### § 165.T07–05–005 Moving and Fixed Security Zone, Port of Fredericksted, Saint Croix, U.S. Virgin Islands.

(a) *Location.* A moving and fixed security zone is established that

surrounds all cruise ships entering, departing, mooring or anchoring in the Port of Fredericksted, Saint Croix, U.S. Virgin Islands. The security zone extends from the cruise ship outward and forms a 50-yard radius around the vessel, from surface to bottom. The security zone for a cruise ship entering port is activated when the vessel is within one nautical mile west of the Fredericksted Pier lights. The security zone for a vessel is deactivated when the cruise ship is beyond one nautical mile west of the Fredericksted Pier lights. The Fredericksted Pier lights are at the following coordinates: 17°42′55″ N, 64°42′55″ W. All coordinates are North American Datum 1983 (NAD 1983).

(b) *Regulations.* All vessels, with the exception of cruise ships, are prohibited from entering the moving and fixed security zone around a cruise ship without the express permission of the Captain of the Port San Juan or designated representative. Persons desiring to transit through a security zone may contact the Captain of the Port San Juan who can be reached on VHF Marine Band Radio, Channel 16 (156.8 MHz) or by calling (787) 289–0739, 24-hours-a-day, 7-days-a-week. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or designated representative.

(c) *Definition.* As used in this section, *cruise ship* means a passenger vessel greater than 100 feet in length that is authorized to carry more than 150 passengers for hire, except for a ferry.

(d) *Effective period.* This section is effective from 5 a.m. on January 29, 2005, until July 23, 2005.

Dated: January 24, 2005.

**D.P. Rudolph,**

*Captain, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 05–1753 Filed 1–31–05; 8:45 am]

BILLING CODE 4910–15–P

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

#### 33 CFR Part 165

[CGD05–05–004]

RIN 1625–AA87

#### Security Zone; Potomac and Anacostia Rivers, Washington, DC and Arlington and Fairfax Counties, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing the waters of the Potomac and Anacostia Rivers in order to safeguard high-ranking public officials from terrorist acts and incidents. This action is necessary to ensure the safety of persons and property, and prevent terrorist acts or incidents. This rule prohibits vessels and people from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Baltimore.

**DATES:** This rule is effective from 8 a.m. eastern standard time on February 2, 2005 through 8 a.m. eastern standard time on February 3, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–05–004 and are available for inspection or copying at Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Houck, Waterways Management Branch, at Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, telephone number (410) 576–2674.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Department of Homeland Security designated the 2005 State of the Union Address a National Special Security Event (NSSE) on January 7, 2005. The Coast Guard is establishing this security zone to support the United States Secret Service, the designated lead Federal agency for an NSSE, in their efforts to coordinate security operations and establish a secure environment for this highly visible and publicized event. This temporary security zone of short duration is necessary to provide for the security of high-ranking United States officials and the public at large. Additionally, the publication of an NPRM is contrary to the public interest as our Nation continues its heightened security posture. Therefore, immediate action is