

under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. § 117.103 is revised to read as follows:

§ 117.103 Bayou La Batre.

The draw of SR 188 Bridge, mile 2.3, at Bayou La Batre, will open on signal every hour on the hour daily between 4 a.m. and 8 p.m., Monday through Sunday. The bridge need not open for the passage of vessels on the hours of 7 a.m., 3 p.m., and 4 p.m., Monday through Friday. Monday through Friday the draw will open on signal for the passage of vessels at 3:30 p.m. The bridge will remain closed to marine traffic from 8 p.m. to 4 a.m. daily except for emergencies.

Dated: June 22, 2005.

Robert F. Duncan,

Rear Admiral, U. S. Coast Guard Commander, Eighth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-05-058]

Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain in the closed position from July 8, 2005 through July 22, 2005 and from July 25, 2005 through August 31, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

DATES: This deviation is effective from July 8, 2005 through August 31, 2005.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION: The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

The owner of the bridge, New York City Department of Transportation

(NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate rehabilitation repairs at the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from July 8, 2005 through July 22, 2005 and from July 25, 2005 through August 31, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: June 23, 2005.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-05-033]

RIN 1625-AA87

Security Zone; Georgetown Channel, Potomac River, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the waters of the upper Potomac River. This action is necessary to provide for the security of a large number of visitors to the annual July 4th celebration on the National Mall in Washington, DC. The security zone will allow for control of a designated area of the river and safeguard spectators and high-ranking officials.

DATES: This rule is effective from 12:01 a.m. to 11:59 p.m. local time on July 4, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-05-033 and are available for inspection or copying at Coast Guard Sector Baltimore, Waterways Management Division, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management

Division, at telephone number (410) 576-2674 or (410) 576-2693.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 6, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; Georgetown Channel, Potomac River, Washington, DC" in the **Federal Register** (70 FR 23948). We received seven pieces of written correspondence commenting on the proposed rule. Based on these comments we reduced the size of the security zone. No public meeting was requested, and none was held.

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**. Immediate action is needed to protect the public from waterborne acts of sabotage or terrorism. Any delay in the effective date of this rule is contrary to the public interest.

Background and Purpose

Due to increased awareness that future terrorist attacks are possible, the Coast Guard, as lead Federal agency for maritime homeland security, has determined that the Captain of the Port Baltimore must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. This security zone is part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities against sabotage or terrorist attacks.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against a large number of spectators and high-ranking officials during the annual July 4th celebration would have on the public interest, the Coast Guard is establishing a security zone that extends 75 yards from the eastern shore upon the waters of the Georgetown Channel of the Potomac River, from the surface to the bottom, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge Complex) to the Theodore Roosevelt Memorial Bridge and all waters in between, totally including the waters of the Georgetown Channel Tidal Basin.

This security zone will help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against a large number of spectators and high-ranking officials during the annual

July 4th celebration. Due to these heightened security concerns, and the catastrophic impact a terrorist attack on the National Mall in Washington, DC during the annual July 4th celebration would have on the large number of spectators and high-ranking officials, and the surrounding area and communities, a security zone is prudent for this type of event.

Discussion of Comments and Changes

The Coast Guard received a total of seven pieces of written correspondence in response to the NPRM. No public meeting was requested and none was held. What follows is a review of, and the Coast Guard's response to, the issues and questions that were presented by these commenters concerning the proposed rule.

(1) Seven commenters indicated that the proposed rule would effectively cut off the Potomac River north of the Roosevelt Bridge to all water traffic to recreational boaters.

We have revised the security zone so that it only restricts vessels from transiting within 75 yards of the eastern shore of the Potomac River, traffic will be allowed to move along the west side of the river. Vessels wishing to anchor to watch the fireworks will be allowed to do so in the middle of the river, leaving the west side of the river open for through-traffic.

(2) Two commenters indicated that the proposed rule would unnecessarily affect human powered watercraft, in which persons have viewed the fireworks from on the water in past years, and that such craft pose little risk to the spectators and high-ranking officials on the National Mall.

As mentioned above, we do not intend to restrict these types of watercraft from entering, operating or remaining within areas along the Virginia side or the middle of the Potomac River.

(3) Four commenters indicated that the proposed rule will have a negative economic impact on area marinas directly and indirectly impacted by the rulemaking.

By allowing vessels and other watercraft to safely transit along the Virginia side of the Potomac River, the economic impact on area businesses will be limited.

(4) Two commenters indicated that the proposed rule could have significant safety impacts on boating navigation.

We make every effort to carefully consider the effects such a regulation has on the boating public, while safeguarding large numbers of spectators and high-ranking officials during this extremely publicized event. We believe

vessel congestion will actually be reduced, since vessels and other watercraft not deemed a security threat will be allowed to safely transit along the Virginia side of the Potomac River. Also, in order to maintain a clear channel along the Virginia side of the Potomac River, vessels wishing to anchor will be allowed to do so in the middle of the river.

(5) One commenter indicated that the proposed rule would be achieving the terrorists' goals by restricting the boating public and if such a regulation was imposed and no credible threat existed, political repercussions for the Coast Guard may result.

The revision of the security zone to extend only 75 yards off the eastern shore of the Potomac River allows the boating public to both safely transit the river and view the July 4th Celebration fireworks from the water.

(6) One commenter indicated that the proposed rule would require boaters to contact the Captain of the Port Baltimore, which may not be practical in all cases.

We do not feel that many vessels, if any, will need to enter the revised security zone. Vessels will be required to request permission from the Captain of the Port Baltimore if the operator feels they have a legitimate need to enter the security zone.

No request for additional comments on the revised rule is made since we believe the revised security zone adequately addresses all the above comments.

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).

This security zone will encompass only a small portion of the waterway.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on 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 might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Potomac River (including the waters of the Georgetown Channel Tidal Basin) from 12:01 a.m. to 11:59 p.m. on July 4, 2005.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for less than 24 hours. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the river to allow mariners to make plans for transiting the affected areas. Because the zone is of limited size, it is expected that there will be minimal disruption to the maritime community.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. However, we received no requests for assistance from any small entities.

Collection of Information

This rule calls for no new collection of information 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 systems 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. This regulation establishes a security zone. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

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. Add § 165.T05–033 to read as follows:

§ 165.T05–033 Security Zone; Georgetown Channel, Potomac River, Washington, DC.

(a) **Definitions.** (1) For purposes of this section, *Captain of the Port, Baltimore, Maryland* means the Commander, Coast Guard Sector Baltimore, Maryland or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain

of the Port, Baltimore, Maryland to act on his or her behalf.

(b) **Location.** The following area is a security zone: all waters of the Potomac River within 75 yards from the eastern shore, measured perpendicularly to the shore upon the waters of the Georgetown Channel of the Potomac River, from the surface to the bottom, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge Complex) to the Theodore Roosevelt Memorial Bridge, and all waters of the Georgetown Channel Tidal Basin.

(c) **Regulations.** (1) The general regulations governing security zones, found in § 165.33, apply to the security zone described in paragraph (b) of this section.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage through the security zone must first request authorization from the Captain of the Port, Baltimore to seek permission to transit the area. The Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576–2693. The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, VHF channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) **Enforcement.** The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) **Effective period.** This section will be effective from 12:01 a.m. to 11:59 p.m. local time on July 4, 2005.

Dated: June 14, 2005.

Curtis A. Springer,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

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