

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 September 1, 2005 through September 30, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

DATES: This deviation is effective from September 1, 2005 through September 30, 2005.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (obr), First Coast Guard District, 1 South Street, Battery Park Building, New York, NY 10004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 212-668-7165. Commander (obr), First Coast Guard District, maintains the public docket for this temporary deviation.

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 of 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 September 1, 2005 through September 30, 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: August 26, 2005.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13-05-027]

RIN 1625-AA00

Safety Zones: Fireworks Displays in the Captain of the Port Portland Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change of effective period.

SUMMARY: The Coast Guard is changing the effective periods of the safety zones on the waters of the Columbia River, located in the Area of Responsibility (AOR) of the Captain of the Port, Portland, Oregon, during fireworks displays. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with these displays. Entry into these safety zones is prohibited unless authorized by the Captain of the Port.

DATES: The new effective period of rule § 165.T13-009 is from 9:30 p.m. to 11 p.m. on August 27, 2005 and from 9:30 p.m. to 11 p.m. on September 10, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (CGD13-05-027) and are available for inspection or copying at the U.S. Coast Guard Sector Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Petty Officer Charity Keuter, c/o Captain of the Port, Portland 6767 N. Basin Avenue, Portland, Oregon 97217, (503) 240-9301.

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) and 5 U.S.C. 553(d)(3), 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**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the various fireworks launching barges and displays. These events were originally scheduled for dates that the sponsor deemed necessary to change and gave the Coast Guard short notice of the change and if normal

notice and comment procedures were followed, this rule would not become effective until after the dates of the events. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard is establishing temporary safety zones to allow for safe fireworks displays. All events occur within the Captain of the Port, Portland, OR, Area of Responsibility (AOR). These events may result in a number of vessels congregating near fireworks launching barges and sites. The safety zones are needed to protect watercraft and their occupants from safety hazards associated with fireworks displays. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other Federal and local agencies.

Discussion of Rule

This rule, for safety concerns, will control vessels, personnel and individual movements in a regulated area surrounding the fireworks event indicated in section 2 of this Temporary Final Rule. Entry into these zones is prohibited unless authorized by the Captain of the Port, Portland or his designated representative. Captain of the Port, Portland, Oregon, will enforce these safety zones. The Captain of the Port may be assisted by other Federal and local agencies.

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 this rule under that Order. This rule 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures act of DHS is unnecessary. This expectation is based on the fact that the regulated areas established by the proposed regulation will encompass small portions of the Columbia and Willamette Rivers in the Portland AOR on different dates, all in the evening when vessel traffic is low.

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.

This 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 a portion of the Willamette and Columbia Rivers during the times mentioned in section 2(a)(1–4) at the conclusion of this rule. These safety zones will not have significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only ninety minutes during the evenings when vessel traffic is low. Traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his designated representatives on scene, if safe to do so.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want 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 governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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 these actions annually and rates 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).

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

Taking of Private Property

This rule will not affect 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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 M16475.1D, 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 rule establishes safety zones which have a duration of no more than two hours each. Due to the temporary safety zones being less than one week in duration, an Environmental Checklist and Categorical Exclusion is not required.

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. Amend temporary § 165.T13–009 by revising paragraphs (a)(1)(ii) and (a)(2)(ii) to read as follows:

§ 165.T13–009 Safety Zones: Fireworks displays in the Captain of the Port Portland Zone.

- (a) * * *
- (1) * * *
- (i) * * *
- (ii) Enforcement time and date. 9:30 p.m. to 11 p.m. on August 27, 2005.
- (2) * * *
- (i) * * *
- (ii) Enforcement time and date. 9:30 p.m. to 11 p.m. on September 10, 2005.
- * * * * *

Dated: August 23, 2005.

Patrick G. Gerrity,

Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.

[FR Doc. 05–17473 Filed 9–1–05; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT95

Endangered and Threatened Wildlife and Plants; Exclusion of U.S. Captive-Bred Scimitar-Horned Oryx, Addax, and Dama Gazelle From Certain Prohibitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are amending the regulations promulgated under the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) to add new regulations to govern certain activities with U.S. captive-bred scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*), which have been listed as endangered. For U.S. captive-bred live wildlife, including embryos and

gametes, and sport-hunted trophies of these three species, this rule authorizes certain otherwise prohibited activities that enhance the propagation or survival of the species. International trade in specimens of these species will continue to be subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). We have also prepared a final Environmental Assessment with a Finding of No Significant Impact for this final rule under regulations implementing the National Environmental Policy Act of 1969 (NEPA).

DATES: This rule is effective October 3, 2005.

ADDRESSES: The complete supporting file for this rule is available for public inspection, by appointment, during normal business hours at the Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, Virginia 22203.

SUPPLEMENTARY INFORMATION:

Background

Historically, the scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*) occupied the same general region of North Africa. Wild numbers of the three antelopes have declined drastically over the past 50 years. The scimitar-horned oryx may now be extinct in the wild. The declines have resulted primarily from habitat loss, uncontrolled killing, and the inadequacy of existing regulatory mechanisms.

Of the three antelope species, the scimitar-horned oryx is the most threatened with extinction. By the mid-1980s, it was estimated that only a few hundred were left in the wild, with the only viable populations known to be in Chad. However, no sightings of this species in the wild have been reported since the late 1980s, and the 2003 *Red List of Threatened Species* shows the status of the scimitar-horned oryx as “extinct in the wild” (World Conservation Union [IUCN] 2003). Captive-bred specimens of this antelope have been placed into large fenced areas for breeding in Morocco and Tunisia. Once animals are reintroduced, continuous natural breeding is anticipated so that wild populations will be re-established.

It is believed that the addax was extirpated from Tunisia during the 1930s, and the last animals were killed in Libya and Algeria in 1966 and 1970, respectively. Remnant populations may still exist in the remote desert areas of Chad, Niger, and Mali, with occasional

movements into Libya and Algeria during times of good rainfall. In the IUCN/SSC Antelope Specialist Group’s *Global Survey of Antelopes*, the addax is considered to be “regionally extinct” (Mallon and Kingswood 2001). The addax is listed as critically endangered by IUCN (IUCN 2003) and probably numbers fewer than 600 in the wild (Noble 2002).

The dama gazelle is able to utilize both semi-desert and desert habitats, and is smaller than the scimitar-horned oryx or addax. Of the three antelope species, the dama gazelle is the least susceptible to pressures from humans and livestock. The original cause of its decline was uncontrolled killing; however, habitat loss through human settlement and livestock grazing, in addition to civil unrest, has more recently contributed to the decline. It is estimated that only small numbers survive in most of the eight countries within its historical range. The dama gazelle has declined rapidly over the last 20 years, with recent estimates of fewer than 700 in the wild. Noble (2002) estimated that the wild population of addax gazelle (*G. dama ruficollis*) is fewer than 200 specimens, the wild population of dama gazelle (*G. dama dama*) is about 500 specimens, and the mhorh gazelle (*G. dama mhorh*) is extinct in the wild. The dama gazelle was previously extirpated from Senegal, but has since been reintroduced, and in 1997, at least 25 animals existed there as part of a semi-captive breeding program (IUCN 2003). The IUCN lists all subspecies of dama gazelles as endangered.

Captive breeding in the United States has enhanced the propagation or survival of the scimitar-horned oryx, addax, and dama gazelle worldwide by rescuing these species from near extinction and providing the founder stock necessary for reintroduction. The scimitar-horned oryx is possibly extinct in the wild; therefore, but for captive breeding, the species might be extinct. Addax and dama gazelle occur in very low numbers in the wild, and a significant percentage of remaining specimens survive only in captivity (71% and 48%, respectively). Captive-breeding programs operated by zoos and private ranches have effectively increased the numbers of these animals while genetically managing their herds (Mallon and Kingswood 2001). Threats that have reduced these species’ numbers to current levels in the wild continue throughout most of the historic range. As future opportunities arise for reintroduction in the antelope range countries, captive-breeding programs will be able to provide genetically