

**§ 117.T302 Massalina Bayou.**

The draw of the Tarpon Dock bascule span bridge, Massalina Bayou, mile 0.0, shall open on signal; except that from 9 a.m. until 10 a.m. on October 28, 2006, the draw need not open for the passage of vessels. The draw will open at any time for a vessel in distress.

Dated: May 16, 2006.

**Ronald W. Branch,**

*Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.*

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**DEPARTMENT OF HOMELAND SECURITY**
**Coast Guard**
**33 CFR Part 165**

[CGD05-06-052]

RIN 1625-AA87

**Security Zone; Severn River and College Creek, Annapolis, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing the waters of the Severn River and College Creek in order to safeguard high-ranking public officials from terrorist acts and incidents during the U.S. Naval Academy graduation ceremony on May 26, 2006. 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 7:30 a.m. to 2 p.m. on May 26, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-06-052 and are available for inspection or copying at Commander, Coast Guard Sector 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 Division, at Commander, Coast Guard Sector 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 Coast Guard is establishing this security zone to coordinate security operations and establish a secure environment for this highly visible and publicized event. The publication of an NPRM is impracticable and contrary to the public interest as immediate action is necessary to protect high-ranking public officials and the public from terrorist acts and incidents during the U.S. Naval Academy graduation ceremony on May 26, 2006. This temporary security zone of short duration is necessary to provide for the security of high-ranking officials and the public at large.

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**. The measures contemplated by the rule are intended to protect high-ranking public officials and the public from waterborne acts of terrorism, which terrorists have demonstrated a capability to carry out. Immediate action is needed to defend against and deter these terrorist acts. Any delay in the effective date of this rule is contrary to public and national interests.

**Background and Purpose**

On May 26, 2006, the Vice President of the United States, Richard B. Cheney, will attend the commencement at the U.S. Naval Academy in Annapolis, Maryland. 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 Coast Guard Captain of the Port 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.

The Captain of the Port is establishing a security zone to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against a

gathering of high-ranking officials at or near Annapolis, Maryland, would have. This temporary security zone applies to all waters of the Severn River, between Horseshoe Point and Biemans Point, and all waters of College Creek eastward of the King George Street Bridge. Marine vessel travel in the area of the Naval Academy Bridge in the Severn River and College Creek will be restricted. The area affected covers nearly 2000 yards of the Severn River's length. Vessels underway at the time this security zone is implemented will immediately proceed out of the zone. We will issue Broadcast Notices to Mariners to further publicize the security zone and any revisions to the zone. This security zone is issued under authority contained in 50 U.S.C. 191 and 33 U.S.C. 1226.

Except for Public vessels and vessels at berth, mooring or at anchor, this rule temporarily requires all vessels in the designated security zone as defined by this rule to depart the security zone.

**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).

**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 may be small entities: The owners or operators of vessels intending to operate or transit on the Severn River, between Horseshoe Point and Biemans Point, and on College Creek, eastward of the King George Street Bridge, from 7:30 a.m. to 2 p.m. on May 26, 2006. This security zone will not have a significant economic impact on a substantial number of small entities due to the

limited duration of the regulation. In addition, the waterway may be opened by the Captain of the Port Baltimore for the passage of traffic during specific times throughout the day.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please contact one of the points of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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 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, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule, because this is an emergency situation lasting less than one week.

#### 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 temporary § 165.T05–052 to read as follows:

#### § 165.T05–052 Security Zone; Severn River and College Creek, Annapolis, Maryland.

(a) *Definitions.* For the purposes of this section:

(1) *Captain of the Port Baltimore* means the Commander, U.S. Coast Guard Sector Baltimore, Maryland and any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Commander, U.S. Coast Guard Sector Baltimore, Maryland to act as a designated representative on his or her behalf.

(2) *State and/or local law enforcement officers* means any State or local

government law enforcement officer who has the authority to enforce State criminal laws.

(b) *Location.* The following area is a security zone: All waters of the Severn River, from shoreline to shoreline, bounded by a line drawn from Horseshoe Point eastward across the Severn River to a point located at 39°39'1.5" N 076°29'8.5" W, and a line drawn from Biemans Point westward across the Severn River to a point 39°59'04" N 076°28'50" W, located on the Naval Academy waterfront. This security zone includes the waters of College Creek eastward of the King George Street Bridge (NAD 1983).

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

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore or his designated representative. Except for Public vessels and vessels at berth, mooring or at anchor, all vessels in this zone are to depart the security zone.

(3) Persons desiring to transit the area of the security zone must first obtain authorization from the Captain of the Port Baltimore. To seek permission to transit the area, the Captain of the Port Baltimore 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 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 is effective from 7:30 a.m. to 2 p.m. on May 26, 2006.

Dated: May 15, 2006.

**Curtis A. Springer,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Charleston 06-003]

RIN 1625-AA00

#### Safety Zone; Cooper River, Hog Island Channel, Charleston, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of Hog Island Reach on the Cooper River, for demolition of the Grace Memorial and Silas Pearman Bridges and associated recovery operations. The temporary safety zone includes all waters within the area bounded by the following coordinates: 32°48.566' N, 079°55.211' W to 32°48.389' N, 079°54.256' W to 32°47.824' N, 079°54.401' W thence to 32°47.994' N, 079°55.359' W. This rule prohibits entry, anchoring, mooring, or transiting within the temporary safety zone without the permission of the Captain of the Port Charleston or his designated representative. This regulation is necessary to protect life and property on the navigable waters of the Cooper River from the dangers associated with the demolition and recovery of these bridges.

**DATES:** The rule is effective from 7:30 a.m. on May 25, 2006 through 8:01 a.m. on December 31, 2006.

**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 [COTP Charleston 06-003] and are available for inspection or copying at Coast Guard Sector Charleston (WWM), 196 Tradd Street, Charleston, South Carolina 29401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer James J. McHugh, Sector Charleston Office of Waterways Management, at (843) 724-7647.

**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 and delay the effective date, would be contrary to the public

interest because immediate action is needed to protect the public and waters of the United States.

For the same reason, 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**. A Coast Guard patrol vessel will be on scene for the duration of the effective period to notify mariners of the restriction.

#### Background and Purpose

The demolition and removal of the Grace Memorial and Silas Pearman Bridges is an on-going operation that will continue throughout the year. This operation will require several explosive detonations to remove the steel trusses and supporting columns for the two bridges. These detonations present a direct danger to mariners transiting in the vicinity of the bridges on Hog Island Reach on the Cooper River. At this time, the detonation schedule can not be exactly determined, however Coast Guard Sector Charleston expects to receive two weeks notice, at maximum, from the contractor before any detonation will occur.

The purpose of this temporary safety zone is to protect mariners from the demolition and recovery operations. While the effective period for this zone extends from May 25, 2006 to December 31, 2006, the zone will only be activated and enforced immediately preceding a detonation, and for a short duration following a detonation to allow for the safe removal of debris. Upon receiving notice from the contractor that a detonation will occur, Coast Guard Sector Charleston will notify the public of the date and time the safety zone will be enforced and when enforcement will stop. While the safety zone is being enforced, mariners may request permission to transit through the zone by contacting the U.S. Coast Guard via VHF-FM channel 16 or by phone at (843) 724-7616. Mariners and the general public may also contact the Coast Guard to request information on the status of the safety zone, including whether it is currently enforced and when the next enforcement period will be.

#### Discussion of Rule

This rule creates a temporary safety zone around the Grace Memorial and Silas Pearman Bridges on Hog Island Reach, and includes all waters within the area bounded by the following coordinates: 32°48.566' N, 079°55.211' W to 32°48.389' N, 079°54.256' W to 32°47.824' N, 079°54.401' W thence to 32°47.994' N, 079°55.359' W. This zone