

## Background and Purpose

The Virginia Department of Transportation has requested that openings of the George P. Coleman Memorial Bridge across York River, mile 7.0 at Yorktown, Virginia, be further limited by extending the morning and evening rush hour closure periods to all vessel traffic, while continuing to open on signal at all other times.

Currently, the Coleman Bridge is closed to vessel traffic from 6 a.m. to 8 a.m. and 3 p.m. to 6 p.m. Monday through Friday, except Federal holidays, year round. The draw opens on signal at all other times. This rule will extend the morning and evening rush hour restrictions by requiring the bridge to remain closed from 5 a.m. to 8 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, year round. Vessels in distress, or in an emergency situation will be allowed passage through the bridge at any time.

The Virginia Department of Transportation's request is based on traffic problems associated with current construction of a new bridge at this location, as well as on an increase in highway traffic crossing the bridge since the Park Service recently closed access to Route 17 at the Colonial Parkway. Finally, Newport News Shipbuilding and Drydock has changed its hours of operation, resulting in motorists crossing the bridge earlier in the morning and later in the evening. The Virginia Pilots Association was informed of the Coast Guard's decision to further restrict openings of the Coleman Bridge. They stated that although they do not support bridge closures in general, they understand the need to extend the hours of restriction for this bridge. The U.S. Navy was contacted and supports the extended periods of restrictions during rush hours.

The Coast Guard believes these restrictions will not unduly restrict vessel passage through the bridge, as vessel operators can plan transits around the interim schedule. The interim rule will remain in effect until three months after completion of construction and renovation of the Coleman bridge. Leaving this rule in effect three months after the work is completed will allow for an evaluation period to gather highway traffic data with the four-lane structure in service. This evaluation period will give VDOT and the Coast Guard information needed to determine if the extended hours of restriction should be made a permanent part of the regulations. The Coast Guard believes it is in the public interest to further limit openings of the Coleman

Bridge and that vessel traffic will not be unduly burdened.

## Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the U.S. Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the regulatory flexibility requirements. Although exempt, the Coast Guard has reviewed this rule for potential impact on small entities. Because it expects the impact of this rule to be minimal, 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. If, however, you think that your business qualifies as a small entity and that this rule will have a significant economic impact on your business, please submit a comment (see ADDRESSES) explaining why you think your business qualifies and in what way and to what degree this rule will affect your business economically.

## Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

## Federalism

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to

warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, (as amended, 59 FR 38654, 29 July 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement and checklist has been prepared and placed in the rulemaking docket.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

In consideration of the foregoing, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations to read as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); Section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.1025(a) is revised to read as follows:

#### § 117.1025 York River.

(a) The Coleman Memorial bridge, mile 7.0, at Yorktown, shall open on signal; except from 5 a.m. to 8 a.m. and 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge shall remain closed to navigation.

(b) \* \* \*

Dated: May 22, 1995.

#### W.J. Ecker,

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

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## 33 CFR Part 165

[COTP St. Louis 95-007]

RIN 2115-AA97

### Safety Zone; Upper Mississippi River, Mile 167.0 to 241.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the Upper Mississippi River between mile 167.0 and 241.0. This regulation is needed to protect vessels from the hazards

associated with operating in high water conditions. This regulation will restrict general navigation in the regulated area for the safety of vessel traffic and the protection of life and property along the shore.

**EFFECTIVE DATES:** This regulation is effective on May 25, 1995 and will remain in effect until June 24, 1995 unless terminated sooner by the Captain of the Port.

**FOR FURTHER INFORMATION CONTACT:** LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539-3823.

**SUPPLEMENTARY INFORMATION:** Drafting Information. The drafters of this regulation are LTJG A. B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

### Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Upper Mississippi River Basin has caused tributaries and the southern portion of the Upper Mississippi River to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a regulation without waiting for comment period since high water conditions present immediate hazard.

### Background and Purpose

The Upper Mississippi River in the vicinity of St. Louis Harbor has seen a rapid rise in the water level and has been above flood stage since May 13, 1995. Recent torrential downpours, predominately in Missouri and southern Illinois, caused a very rapid rise in river stages. Water conditions that cause rapid and sharp rises in river stages also cause treacherous currents in the vicinity of bridges within St. Louis Harbor. These currents make the approach to the bridges more critical since the time to impose course corrections are diminished. Additionally, the high water conditions reduce both the vertical and horizontal clearances available to the navigating tow.

This rule is required for the safety and protection of vessels transiting the safety zone and for the protection of

levees and property along the Upper Mississippi River.

### Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539-3823 for current information.

### Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

### Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Records and recordkeeping, Security measures, Vessels, Waterways.

### Temporary Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

### PART 165—[AMENDED]

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5

2. A temporary section 165.T02-040 is added, to read as follows:

### § 165.T02-040 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 167.0 and 241.0 is established as a safety zone.

(b) *Effective Dates.* This section is effective on May 25, 1995 and will terminate on June 24, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: May 25, 1995.

### S.P. Cooper,

*Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.*

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### 33 CFR Part 165

[COTP St. Louis 95-008]

RIN 2115-AA97

### Safety Zone; Upper Mississippi River, Mile 110.0 to 130.0

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the Upper Mississippi River between mile 110.0 and 130.0. The regulation is required for the prevention of damage to levees and protection of flooded areas. This