

Dated: December 5, 1995.

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 95-081]

RIN 2115-AF22

Fifth and Eighth District Marine Inspection and Captain of the Port Zone Boundaries

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the descriptions of several Marine Inspection and Captain of the Port zone boundaries in the Fifth Coast Guard District as a result of the consolidation of the Marine Safety Office Baltimore and Group Baltimore into a single unit, Activities Baltimore. The Coast Guard is also revising the descriptions of the former Marine Inspection and Captain of the Port Zones for Houston, TX and Galveston, TX to reflect their merger into a single zone. These changes will clarify Coast Guard geographic area responsibilities both in the Fifth and in the Eighth Coast Guard Districts. These changes are administrative and will not impact the type or level of Coast Guard services performed.

EFFECTIVE DATES: This rule is effective on December 28, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Janet Walton, Project Manager, Standards Evaluation and Development Division (G-MES-2), (202) 267-0257.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Fifth District—Activities Baltimore

During 1995, the Coast Guard reorganized the Marine Safety Office Baltimore and Group Baltimore units by consolidating them into a single unit

and redefining its geographic area of responsibility. The new unit, Activities Baltimore, is now the location of the Baltimore Marine Inspection Office (MI) and Captain of the Port Office (COTP), and its area of responsibility is now limited to the upper Chesapeake Bay and its tributaries, all within the State of Maryland. The Philadelphia Marine Inspection Zone and Captain of the Port Zone were enlarged to add those portions of the Chesapeake and Delaware Canal, and upper portions of the Nanticoke River located within the state of Delaware which formerly were in the Baltimore zone. The Hampton Roads Marine Inspection Zone and Captain of the Port Zone has been expanded to include portions of eastern Maryland, northern Virginia and the Atlantic Ocean which formerly had been part of the Baltimore Marine Inspection Zone and Captain of the Port Zone. The boundary between the Baltimore and Hampton Roads MI and COTP zones is now, starting from the intersection of the Virginia-Maryland-West Virginia boundaries, the southern bank of the Potomac River as it follows the Virginia-Maryland and Virginia-District of Columbia boundaries, the Virginia-Maryland boundary across the Chesapeake Bay and the western portion of Delmarva Peninsula, and a north-south line along 75°30' W. longitude from the Virginia-Maryland boundary to the Maryland-Delaware boundary. The entire Commonwealth of Virginia and the eastern portion of Maryland along the Atlantic coast are now included within the Hampton Roads Marine Inspection Zone and COTP Zone.

Eighth District—Houston-Galveston

Previously, the Coast Guard Marine Safety Offices in Houston and Galveston each exercised MI and COTP authority in their respective regions. The Coast Guard has consolidated the MI and COTP authority for both of these regions into one MI and COTP zone, Houston-Galveston. This merger streamlined the command and control of Marine Safety activities for the Houston and Galveston areas.

Discussion of Changes

The current descriptions do not reflect the changes in these MI/COTP zones. This rule will revise these descriptions. The Coast Guard is proceeding directly to a final rule under section 553(b)(3)(A) of the Administrative Procedures Act (5 U.S.C. § 551 et seq.) which excludes rulemakings relating to agency organization, procedure, or practice from the requirements of public notice and comment. These changes are

administrative and will not impact the type or level of Coast Guard services performed.

§ 3.25-05. This section, describing the Philadelphia Marine Inspection Zone and Captain of the Port Zone, is revised to add those portions of the Chesapeake and Delaware Canal, and upper portions of the Nanticoke River located within the state of Delaware which previously were in the Baltimore zone. As a result, the entire state of Delaware will be within the boundaries of the Philadelphia Marine Inspection and Captain of the Port Zones.

§ 3.25-10. This section, describing the Hampton Roads Marine Inspection Zone and Captain of the Port Zone, is being revised to add the northern portion of Virginia, the eastern portion of Maryland, and the portion of the Atlantic Ocean which previously were in the Baltimore MI and COTP Zones. Instead of the boundary between the Baltimore and Hampton Roads MI/COTP zones currently described by a line through northern Virginia and the Virginia-Maryland boundary across the Chesapeake Bay and the Delmarva Peninsula, the boundary is now, starting from the intersection of the Virginia-Maryland-West Virginia boundaries, the southern bank of the Potomac River as it follows the Virginia-Maryland and Virginia-District of Columbia boundaries, the Virginia-Maryland boundary across Chesapeake Bay and the western portion of Delmarva Peninsula, and a north-south line along 75°30' W. longitude from the Virginia-Maryland boundary to the Maryland-Delaware boundary, and then along that boundary to the ocean and further seaward. The entire Commonwealth of Virginia, the eastern portion of Maryland along the Atlantic coast, and the Atlantic Ocean adjacent to the Maryland coast to the outermost extent of the EEZ are now included within the Hampton Roads Marine Inspection Zone and Captain of the Port Zone. The Hampton Roads zones will border the Philadelphia Marine Inspection and Captain of the Port Zones from a point on the Maryland-Delaware boundary (75°30' W. longitude) and along that boundary to the ocean and further seaward in the same manner as did the Baltimore MI/COTP zones.

§ 3.25-15. This section, describing the Baltimore Marine Inspection Zone and Captain of the Port Zone, is revised to describe its new boundaries. The Chesapeake and Delaware Canal, and Nanticoke River, which were wholly within the Baltimore Marine Inspection and COTP Zones, are now divided between the Baltimore and Philadelphia zones at the Maryland-Delaware

boundary. This section is also being revised so that Baltimore's common boundary with the Hampton Roads Marine Inspection and COTP Zones matches that described for section 3.25-10. The result will be that the Baltimore Marine Inspection Zone and COTP Zone will encompass the whole of the State of Maryland, including the Potomac River to the Virginia and District of Columbia boundaries, with the exception of that portion of Maryland east of 75°30' N. longitude.

§ 3.40-25. This section, describing the Houston Marine Inspection Zone and Captain of the Port Zone, is removed.

§ 3.40-28. This section, describing the Houston-Galveston Marine Inspection Zone and Captain of the Port Zone, is added. The MSO Houston remains at the same location, is renamed MSO Houston-Galveston, and assumes MI and COTP authority. MSO Galveston remains at the same location, becomes Marine Safety Unit (MSU) Galveston, and is a subordinate office to MSO Houston-Galveston with no independent MI or COTP authority.

§ 3.40-30. This section, describing the Galveston Marine Inspection Zone and Captain of the Port Zone, is removed.

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 not been reviewed 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. As this rule involves internal agency practices and procedures, it will not impose any costs to the public.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule 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 paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs 2.B.2.e.(34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 3

Organization and functions (Government agencies).

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 3 as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

1. The authority citation for part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. In § 3.25-05, paragraph (b) is revised to read as follows:

§ 3.25-05 Philadelphia Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(b) The boundary of the Philadelphia Marine Inspection Zone and Captain of the Port Zone starts at the New Jersey coast at 39°57' N. latitude, thence proceeds westward to 39°57' N. latitude, 74°27' W. longitude; thence north-northwesterly to the intersection of the New York-New Jersey-Pennsylvania boundaries at Tristate; thence north following the course of and including the waters of the Delaware River until it meets the New York boundary; thence west along the New York-Pennsylvania boundary to 78°55' W. longitude; thence south to 41°00' N. latitude; thence west to 79°00' W. longitude; thence south to the Pennsylvania-Maryland boundary; thence east to the intersection of the Maryland-Delaware boundary; thence south and east along the Maryland-Delaware boundary to the sea, including Fenwick Island Light. The offshore boundary starts at Fenwick Island Light and proceeds east along 38°28' N. latitude, to 71°00' W. longitude; thence northwesterly along a line bearing 122°T from the New Jersey coast at 39°57' N. latitude.

3. In § 3.25-10, paragraph (b) is revised to read as follows:

§ 3.25-10 Hampton Roads Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(b) The boundary of the Hampton Roads Marine Inspection Zone and Captain of the Port Zone starts at the intersection of the Maryland-Delaware boundary and the coast and proceeds along the Maryland-Delaware boundary to a point 75°30' W. longitude; thence southerly to a point 75°30' W. longitude on the Maryland-Virginia boundary; thence westerly along the Maryland-Virginia boundary as it proceeds across the Delmarva Peninsula, Pocomoke River, Tangier and Pocomoke Sounds, and Chesapeake Bay; thence northwesterly along the Maryland-Virginia boundary and the District of Columbia-Virginia boundary as those boundaries are formed along the southern bank of the Potomac River to the intersection of the Virginia-Maryland-West Virginia boundaries; thence southerly along the Virginia-West Virginia boundary and the Virginia-Kentucky boundary to the Tennessee boundary; thence eastward along the Virginia-Tennessee boundary to the Virginia-North Carolina boundary; thence eastward along the Virginia-North Carolina boundary to Kerr (Buggs Island) Lake; thence along the shore of Kerr Lake in North Carolina back to the Virginia-North Carolina boundary; thence eastward along the Virginia-North Carolina boundary to the west bank of the Chowan River; thence southerly along the west bank of the Chowan River to a point 36°00' N. latitude, 76°41' W. longitude; thence generally southerly and easterly along the western boundaries of Washington, and Hyde Counties to a point 35°37' N. latitude, 76°32' W. longitude; thence easterly to a point 35°37' N. latitude, 76°00.5' W. longitude; thence generally southwesterly to a point 35°01.5' N. latitude, 76°20' W. longitude; thence easterly to the sea at 34°59.8' N. latitude, 76°07.8' W. longitude. The offshore boundary starts at the intersection of the Maryland-Delaware boundary and the coast and proceeds east to a point 38°28' N. latitude, 71°00' W. longitude; thence southeasterly on a line bearing 122°T to the outermost extent of the EEZ; thence southerly along the outermost extent of the EEZ to 34°59.8' N. latitude; and thence westerly along 34°59.8' N. latitude to the coast at 76°07.8' W. longitude.

4. In § 3.25-15, paragraph (b) is revised to read as follows:

§ 3.25-15 Baltimore Marine Inspection Zone and Captain of the Port Zone

* * * * *

(b) The boundary of the Baltimore Marine Inspection Zone and Captain of the Port Zone starts at a point of 75°30' W. longitude on the Delaware-Maryland boundary and proceeds along the Delaware-Maryland boundary west and north to the Pennsylvania boundary; thence west along the Pennsylvania-Maryland boundary to the West Virginia boundary; thence southerly and easterly along the Maryland-West Virginia boundary to the Virginia boundary; thence southeasterly along the Maryland-Virginia boundary and the District of Columbia-Virginia boundary as those boundaries are formed along the southern bank of the Potomac River; thence easterly along the Maryland-Virginia boundary as it proceeds across the Chesapeake Bay, Tangier and Pocomoke Sounds, Pocomoke River, and Delmarva Peninsula to a point 75°30' W. longitude on the Maryland-Virginia boundary; thence northerly to a point 75°30' W. longitude on the Delaware-Maryland boundary.

§ 3.40-25 [Removed]

5. Section 3.40-25 is removed.

6. Section 3.40-28 is added to read as follows:

§ 3.40-28 Houston-Galveston Marine Inspection Zone and Captain of the Port Zone

(a) The Houston-Galveston Marine Inspection Office and the Captain of the Port Office are located in Houston, Texas. The Galveston Marine Safety Unit is a subordinate unit of the Marine Safety Office and is located in Galveston, Texas.

(b) The boundary of the Houston-Galveston Marine Inspection Zone and Captain of the Port Zone starts at the intersection of the sea and 94°23' W. longitude; thence proceeds north along 94°23' W. longitude to 30°00' N. latitude; thence west along 30°00' N. latitude to the east bank of the Trinity River; thence northerly along the east bank of the Trinity River; thence northwesterly along the eastern shore of Lake Livingston; thence northwesterly along the east bank of the Trinity River to the southern boundary of Dallas County, Texas; thence westerly along the southern boundary of Dallas County, Texas to 97°00' W. longitude; thence north along 97°00' W. longitude to the Texas-Oklahoma boundary; thence northwesterly along the Texas-Oklahoma boundary; thence north along the New Mexico-Oklahoma boundary; thence west along the New Mexico-Colorado boundary; thence south along the New Mexico-Arizona boundary; thence easterly along the southern boundary of New Mexico to the

southeast corner of New Mexico at 32°00' N. latitude; thence southeasterly to 29°18' N. latitude, 96°07' W. longitude on the east bank of the Colorado River; thence southerly along the east bank of the Colorado River to the sea; thence along a line bearing 140°T to the outermost extent of the EEZ; thence easterly along the outermost extent of the EEZ to 93°25' W. longitude; thence north to 27°49' N. latitude, 93°25' W. longitude; thence northwesterly to 29°30' N. latitude, 93°48' W. longitude; thence westward following a line 10.3 nautical miles from the coast to 29°24' N. latitude, 94°20' W. longitude; thence northwesterly to the coast at 94°23' W. longitude.

§ 3.40-30 [Removed]

7. Section 3.40-30 is removed.

Dated: December 19, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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46 CFR Part 16

[CGD 95-090]

RIN 2115-AF25

Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Delay of Implementation Dates

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is delaying the effective date of regulations governing drug testing, insofar as those regulations would require testing of persons onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government. Under this final rule, the Coast Guard continues to delay the effective date for foreign implementation until January 2, 1997, to allow completion of a permanent change to the regulations affecting foreign implementation of its drug testing rules.

EFFECTIVE DATE: December 28, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Jerry Hilton, Project Manager, Marine Investigation Division (G-MAO-1), Office of Marine Safety, Security and Environmental Protection, (202) 267-0686.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Lieutenant Jerry Hilton, Project Manager, Office of Marine Safety, Security and Environmental protection, and Christena Green, Project Counsel, Office of Chief Counsel.

Background and Purpose

On November 21, 1988, the Coast Guard, along with other agencies of the Department of Transportation (DOT), adopted regulations requiring pre-employment, post-accident, reasonable cause, and random drug testing. Those individuals required under Federal law or regulation to have periodic medical examinations were also required to undergo a drug test at the same time. The drug testing required by the rule applies to some persons located outside of the United States. However, the rules provided that they would not apply outside the United States in any situation in which application of the rules violated foreign local laws or policies.

At the same time, the Coast Guard stated that the DOT and other elements of the government would enter into discussions with foreign governments to attempt to resolve any conflict between our rules and foreign government laws or policies. The Coast Guard stated that if, as a result of those discussions, it was found that amendments to the rule were necessary, timely amendments would be issued. An amendment was issued on December 21, 1989, and published on December 27, 1989 (54 FR 53286). Under that amendment, drug testing for persons onboard U.S. vessels in waters subject to the jurisdiction of a foreign government was scheduled to begin by January 2, 1992. A final Rule was published on April 24, 1991, delaying the implementation date to January 2, 1993 (56 FR 18982); a Final Rule was published on July 14, 1992, delaying the implementation date to January 2, 1995 (57 FR 31274); and another Final Rule was published on December 20, 1994, delaying the implementation date to January 2, 1996 (59 FR 6500).

During the past few years, discussions with other countries have been held, and the difficulty of achieving effective bilateral agreements has become clear. Although the Coast Guard could allow its regulations to take effect in foreign