

## 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 parts 110 and 165 as follows:

**PART 110—ANCHORAGE REGULATIONS**

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

**§ 110.205 [Amended]**

2. In § 110.205, suspend paragraphs (a)(1) and (a)(5) from 3 p.m. (local) December 17, 2001, until 11 a.m. (local) March 1, 2002.

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.**

3. The authority citation for part 165 continues to read as follows:

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

4. A new temporary § 165.T09–112 is added to read as follows:

**§ 165.T09–112 Security zone; Lake Michigan, Navy Pier, Chicago Harbor, Chicago, IL**

(a) *Location.* The following is a security zone: All waters of Lake Michigan encompassed by a line drawn from the northeast corner of the Central District Filtration Plant (41°53'46" N, 87°36'09" W); then east to the breakwall at 41°53'46" N, 87°35'30" W; then south to 41°53'20" N, 87°35'30" W; west to 41°53'20" N, 87°36'20" W; then following the shoreline back to the point of origin (NAD 83).

(b) *Effective dates.* This section is effective from 3 p.m. December 17, 2001 through 11 a.m. (local), March 1, 2002.

**(c) Regulations.**

(1) This section is issued under § 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226).

(2) In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago.

(3) The Captain of the Port Chicago will generally permit those passenger vessels that normally operate from the Navy Pier to regularly transit the area. However, should the Captain of the Port Chicago determine it is appropriate, he

will require even those vessels which normally operate from the Navy Pier to request permission before leaving or entering the security zone. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before transiting the security zone. The Captain of the Port Chicago may be contacted via VHF Channel 16.

(4) All persons and vessels shall comply with the instruction of the Captain of the Port Chicago or the designated on-scene U.S. Coast Guard patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Emergency response vessels are authorized to move within the zone but must abide by the restrictions imposed by the Captain of the Port.

Dated: December 17, 2001.

**James D. Hull,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

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**BILLING CODE 4910–15–P**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

**[CGD08–01–042]**

**RIN 2115–AE47**

**Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary rule.

**SUMMARY:** The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the Rock Island Railroad and Highway Drawbridge, Mile 482.9, Upper Mississippi River. The drawbridge will be allowed to remain closed to navigation from 8 a.m., December 19, 2001, until 8 a.m., March 11, 2002. This change is necessary to perform annual maintenance and repair work on the bridge.

**DATES:** This temporary rule is effective from 8 a.m. Central Standard Time (CST) on December 19, 2001, to 8 a.m. Central Standard Time (CST) on March 11, 2002.

**ADDRESSES:** Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD08–

01–042 and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at the Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch at (314) 539–3900, extension 378.

**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. This rule is being promulgated without an NPRM due to the short time frame allowed between the submission of the request by the Department of the Army, Rock Island Arsenal and the date of requested closure. The Coast Guard received the request from the Department of the Army, Rock Island Arsenal, on 25 October 2001. Winter conditions on the Upper Mississippi River coupled with the closure of the Army Corps of Engineers' Lock No. 24 (Mile 273.4 UMR) until March 2, 2002 and Lock No. 12 (Mile 556.7) until March 11, 2002, will preclude any significant navigation demands for the drawspan opening.

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**. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators. No objections were raised.

**Background and Purpose**

On October 25, 2001, the Department of the Army, Rock Island Arsenal requested a temporary change to the operation of the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, Mile 482.9 at Rock Island, Illinois. The Department of the Army, Rock Island Arsenal requested that the drawbridge be temporarily closed to navigation in order to perform necessary maintenance and bridge repair during the winter months.

The Rock Island Railroad and Highway Drawbridge has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the

draw opens on signal for passage of river traffic. The Department of the Army, Rock Island Arsenal requested the drawbridge be permitted to remain closed-to-navigation from 8 a.m., December 19, 2001, until 8 a.m., March 11, 2002. Winter conditions on the Upper Mississippi River coupled with the closure of the Army Corps of Engineers' Lock No. 24 (Mile 273.4 UMR) until March 2, 2002 and Lock No. 12 (Mile 556.7) until March 11, 2002, will preclude any significant navigation demands for the drawspan opening. The Rock Island Railroad and Highway Drawbridge, Mile 482.9 Upper Mississippi River, is located upstream from Lock 24. Performing maintenance on the bridge during the winter months when no vessels are impacted is preferred to bridge closures or advance notification requirements during the commercial navigation season. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators. No objections were raised.

#### 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of the temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because river traffic will be extremely limited by lock closures and ice during this period.

#### 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.

#### 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 can better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539-3900, extension 378.

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 contains 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 this rule 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 or \$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 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 concern 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.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1 (series), this rule is categorically excluded from further environmental documentation. Promulgation of changes to drawbridge regulations has been found not to have significant effects on the human environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

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

**Authority:** 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. From 8 a.m., December 19, 2001, through 8 a.m., March 11, 2002, § 117. T392 is added to read as follows:

**§ 117.T392 Upper Mississippi River.**

*Rock Island Railroad and Highway Drawbridge Mile 482.9 Upper Mississippi River.*

From 8 a.m. (CST), December 19, 2001 through 8 a.m. (CST), March 11, 2002, the drawspan is allowed to be maintained in the closed to navigation position and need not open for vessel traffic.

Dated: December 7, 2001.

**Roy J. Casto,**

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

[FR Doc. 01–31841 Filed 12–26–01; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[CGD05–01–080]

RIN 2115–AE84

**Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** Commander, Fifth Coast Guard District is temporarily expanding the geographic definition of the Hampton Roads Regulated Navigation Area to include the waters of the 12 nautical mile territorial sea off the Coast of Virginia and adding new port security measures, in order to improve the safety and security of vessel traffic at the entrance to Chesapeake Bay and Hampton Roads, Virginia. The effect of this temporary rule will be to ensure the safety and security of the boating public, local military commands, and commercial shipping interests in the area.

**DATES:** This temporary final rule is effective from December 11, 2001 to June 15, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, Virginia, 23510 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Monica Acosta, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441–3453.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation and the rule takes effect immediately. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Immediate action is necessary to ensure the safety and security of the public, naval vessels moored at Naval Station Norfolk, and the commercial shipping industry in Hampton Roads, VA. There have been recent reports, all a matter of public record, that indicate a continuing high risk of terrorist activity in the United States. Based on these reports, the Fifth Coast Guard District Commander has determined a heightened security condition in the Port of Hampton Roads is required. Delay in implementing these changes, therefore, would be contrary to the public interest.

For similar reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**.

**Background and Purpose**

This temporary rule is necessary for the District Commander to reduce the potential threat to the Port of Hampton Roads, VA and surrounding waterways. The Coast Guard, as lead federal agency for maritime homeland security, 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 at the same time maintaining our freedoms and sustaining the flow of commerce. The Coast Guard implements Limited Access Areas, listed in 33 CFR part 165, in order to control vessel movements within Captain of the Port Zones. A Regulated Navigation Area is a type of Limited Access Area that may be used to control vessel traffic by specifying

times of vessel entry, movement, or departure to, from, within, or through ports, harbors or other waters. The temporary rule the District Commander has established by this rulemaking allows for differentiation between lawful and unlawful maritime activities without unreasonably disrupting the free flow of commerce.

The District Commander has created a series of validation procedures to identify legitimate users of the Port of Hampton Roads. Validation procedures for vessels in excess of 300 GT, including tug and barge combinations in excess of 300 gross tons combined, include the following:

1. Vessels must check in with the Captain of the Port or his representative at least 30 minutes prior to entry to obtain permission to transit the Regulated Navigation Area.

2. Upon authorization and approval by the Captain of the Port or his representative, the vessel may enter the Regulated Navigation Area.

3. All vessels that receive permission to enter the Regulated Navigation Area remain subject to a Coast Guard port security boarding.

4. Thirty (30) minutes prior to getting underway, vessels departing or moving within the Regulated Navigation Area must contact the Captain of the Port or his representative via VHF–FM channel 13 or 16, call (757) 444–5209/5210, or call (757) 441–3298 for the Captain of the Port Command Duty Officer. The Captain of the Port will notify the public of changes in the status of the port security requirements by marine information broadcast on VHF–FM marine band radio, channel 22A (157.1 MHz)

**Regulatory Evaluation**

This temporary final 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). This temporary final rule will affect only those vessels in excess of 300 GT that enter and depart the Port of Hampton Roads and it is implemented for a limited duration. Therefore, we expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.