

on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Unfunded Mandates*

This rule is a technical amendment and will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year.

#### **List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 8, 2002.

#### **Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

#### **PART 917—KENTUCKY**

1. The authority citation for part 917 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

#### **§ 917.16 [Amended]**

2. § 917.16 is amended by removing and reserving paragraphs (c)(2) and (o).

[FR Doc. 03-978 Filed 1-15-03; 8:45 am]

**BILLING CODE 4310-05-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 117**

**[CGD07-03-005]**

#### **Drawbridge Operation Regulations: Hobe Sound Bridge (SR 708), Atlantic Intracoastal Waterway, Mile 996.0, Hobe Sound, Martin County, FL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Hobe Sound Bridge (SR 708) at Hobe Sound across the Atlantic Intracoastal Waterway, mile 996.0 in Hobe Sound, Martin County, Florida. This deviation allows the drawbridge to open only a

single-leaf on the hour, 20 minutes after the hour, and 40 minutes after the hour from 7 a.m. to 6 p.m. for two days, with a double-leaf openings available with two-hour notice to the bridge tender. This temporary deviation is required to allow the bridge owner to safely complete repairs to the bridge.

**DATES:** This deviation is effective from 7 a.m. on January 15, 2003 until 6 p.m. on January 16, 2003.

**ADDRESSES:** Material received from the public, as well as comments indicated in this preamble as being available in the docket, are part of docket [CGD07-03-005] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Project Manager, Seventh Coast Guard District, Bridge Branch at (305) 415-6744.

**SUPPLEMENTARY INFORMATION:** The existing regulations of the Hobe Sound Bridge (SR 708), mile 996, at Hobe Sound, Martin County, Florida, published in the **Federal Register** [CGD07-02-104, 67 FR 55115], require the bridge to open on signal, except that from 7 a.m. to 6 p.m. the bridge will open on the hour, 20 minutes after the hour, and 40 minutes after the hour. On December 4, 2002, the Commissioners of Martin County, the drawbridge owner, requested a deviation from the current operating regulations by allowing the bridge to only open a single-leaf of the bridge to safety effect repairs. A double-leaf opening will be available with two-hour advance notice to the bridge tender.

The District Commander has granted a temporary deviation from the operating requirements listed in CGD07-02-104, 67 FR 55115 to complete repairs to the bridge. Under this deviation, the Hobe Sound Bridge (SR 708) need open only a single-leaf on the hour, 20 minutes after the hour, and 40 minutes after the hour from 7 a.m. to 6 p.m. on January 15, 2002 and January 16, 2002. A double-leaf opening will be provided with a two-hour advance notice to the bridge tender.

Dated: January 9, 2003.

#### **Greg Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

[FR Doc. 03-1007 Filed 1-15-03; 8:45 am]

**BILLING CODE 4910-15-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 165**

**[CGD05-02-103]**

**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:** The Commander, Fifth Coast Guard District is adding vessel speed limits, for certain vessels operating in the vicinity of Naval Station Norfolk, to the existing regulated navigation area found at 33 CFR 165.501. This temporary rule is necessary to ensure the safety and security of naval vessels that are moored at Naval Station Norfolk. The temporary rule will require all vessels of 300 gross tons and greater to reduce speed to eight knots in the vicinity of Naval Station Norfolk, in order to improve security measures and reduce the potential threat to Naval Station Norfolk security that may be posed by these vessels.

**DATES:** This temporary final rule is effective from December 20, 2002 to June 15, 2003.

**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 CGD05-02-103 and 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 Monica Acosta, USCG, 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 temporary regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Upon request by the Navy, immediate action is necessary to ensure the safety and security of naval vessels moored at Naval Station Norfolk during large merchant vessel transits of the Elizabeth River. Due to their large size and substantial momentum while underway, these merchant vessels pose

a potential threat to Naval Station Norfolk's security. Imposing this speed limit will improve security alongside Naval Station Norfolk as well as reduce the potential threat. 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**. Delaying the effective date of the rule would be contrary to the public interest, as immediate action is necessary to ensure the safety and security of naval vessels during large merchant vessel transits of the Elizabeth River.

#### **Background and Purpose**

The Commander Naval Station Norfolk requested this rule to reduce the potential threat to national security that may be posed by vessels of 300 gross tons or greater as they pass the naval station. This temporary modification of the regulated navigation area (RNA) is necessary to ensure the safety and security of naval vessels in the vicinity of Naval Station Norfolk. The U.S. Navy or other federal agencies may assist the U.S. Coast Guard in the enforcement of this rule.

No vessel of 300 gross tons or greater may proceed at a speed over eight knots between Elizabeth River Channel Lighted Gong Buoy 5 (LL 9470) of Norfolk Harbor Reach and gated Elizabeth River Channel Lighted Buoys 17 (LL 9595) and 18 (LL 9600) of Craney Island Reach. All vessels less than 300 gross tons are exempt from this rule, as well as all Public vessels as defined in 33 U.S.C. 1321, which states that a public vessel means a vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

#### **Regulatory Evaluation**

This temporary 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). This temporary final rule will be in effect for less than nine months. During this period, it is estimated to affect 3988 vessel transits. However, the speed limit restrictions are only in effect for less than four miles, and typical vessel speed is 10 knots. Therefore, any delay

caused by the two knot reduction in speed will be minimal.

#### **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 temporary 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 300 gross tons or greater intending to transit Norfolk Harbor Reach at speeds greater than eight knots. This regulated navigation area will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only affect a limited portion of a vessel's total transit, and for only a length of less than four miles. Deep-draft vessels typically transit this area at approximately 10 knots, and therefore the eight-knot speed limit will not cause significant delays. Further, the rule is only in effect for nine months.

If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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. 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 temporary rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.IC, this temporary rule is categorically excluded from further environmental documentation. This temporary rule seeks to modify a well established Regulated Navigation Area, and will be in effect for less than nine months. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 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; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. From December 20, 2002 until June 15, 2003 add new paragraph (d)(14) to § 165.501 to read as follows:

#### § 165.501 Chesapeake Bay entrance and Hampton Roads, Va. and adjacent waters—regulated navigation area.

\* \* \* \* \*

(d) \* \* \*

(14) Speed restrictions on Norfolk Harbor Reach. Vessels of 300 gross tons or more may not proceed at a speed over

eight knots between the Elizabeth River Channel Lighted Gong Buoy 5 (LL 9470) of Norfolk Harbor Reach (northwest of Sewells Point) at approximately 36°58'00" N, 76°20'00" W and gated Elizabeth River Channel Lighted Buoys 17 (LL 9595) and 18 (LL 9600) of Craney Island Reach (southwest of Norfolk International Terminal) at approximately 36°54'17" N, 76°20'11" W. All vessels less than 300 gross tons are exempt from this rule. All coordinates reference Datum NAD 1983. This speed restriction does not apply to Public Vessels as defined in 33 U.S.C. 1321(a)(4). The U.S. Navy or other federal agencies may assist the U.S. Coast Guard in the enforcement of this rule.

\* \* \* \* \*

Dated: December 20, 2002.

**J.D. Hull,**

*Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 03-1006 Filed 1-15-03; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 22

[FRL-7439-7]

### Change of Physical Location of EPA's Environmental Appeals Board

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Appeals Board (EAB) of the U.S. Environmental Protection Agency has relocated its office and today is amending the address as it is referenced in the regulation on Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits.

**DATES:** This final rule is effective on January 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Eurika Durr, Clerk of the Board. Telephone number: (202) 233-0122. Email: [Durr.Eurika@epa.gov](mailto:Durr.Eurika@epa.gov).

**SUPPLEMENTARY INFORMATION:** This action is directed to the public in general, and in particular to anyone who may need or want to visit or submit documents to the office of the EAB. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

## I. Background

### A. What Action Is the Agency Taking?

The EAB has relocated its office from one office building to another in downtown Washington, DC. The current physical location of the EAB is Suite 500, 607 14th Street, NW., Washington, DC. This address is referenced in the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (CROP), 40 CFR part 22, which provides, in pertinent part, that:

Within 30 days after the initial decision is served, any party may appeal any adverse order or ruling of the Presiding Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board (Clerk of the Board, (Mail Code 1103B), United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand deliveries may be made at Suite 500, 607 14th Street, NW.).

40 CFR 22.30(a). On December 9, 2002, the EAB relocated its office to Suite 600, 1341 G Street, NW. The purpose of this amendment is to delete the sentence in 40 CFR 22.30(a) which provides that "[h]and deliveries may be made at Suite 500, 607 14th Street, NW.," and to substitute a sentence which provides that "[h]and deliveries may be made at Suite 600, 1341 G Street, NW." The amendment will have no effect on any documents that are filed at the EAB's official mailing address, which is 1200 Pennsylvania Ave., NW.

### B. How Can I Get Additional Information About This Action?

You may obtain additional information about this action on the EAB's Internet home page at <http://www.epa.gov/eab>.

### C. What Is the Agency's Authority for Taking This Action?

EPA is issuing this document under its general rulemaking authority. Reorganization Plan No. 3 of 1970 (5 U.S.C. app.). In addition, section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice of public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that this amendment is technical and non-substantive, and therefore, that there is good cause under 5 U.S.C. 553(b)(B) for making this rule final without prior proposal and opportunity for comment.