

temporary deviation from the regulation governing the operation of the Burlington Northern Railroad Drawbridge, across the St. Croix River, mile 0.2, at Prescott, Wisconsin. This deviation allows the drawbridge to remain closed to navigation except upon 24 hours notice to open for 28 days from 8 a.m., November 17, 2003, until 11:59 p.m., December 14, 2003, central standard time. The deviation will facilitate maintenance work on the bridge that is essential to the continued safe operation of the drawbridge.

**DATES:** This temporary deviation is effective from 8 a.m., November 17, 2003, until 11:59 p.m., December 14, 2003.

**ADDRESSES:** Materials referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103-2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:**

Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103-2832, (314) 539-3900, extension 2378.

**SUPPLEMENTARY INFORMATION:** The Burlington Northern Santa Fe Railroad requested a temporary deviation on October 17, 2003 for the operation of the drawbridge to allow the bridge owner time for preventative maintenance. Presently, the draw opens on signal for passage of river traffic; except that from December 15 through March 31, the draw must open on signal if at least 24 hours notice is given. This deviation allows the bridge to remain closed to navigation except upon 24 hours notice to open for 28 days from 8 a.m., November 17, 2003, until 11:59 p.m., December 14, 2003, Central Standard Time. Vessels not exceeding the vertical clearance of the drawbridge may pass under the drawbridge during repairs. There are no alternate routes for vessels transiting through mile 0.2, St. Croix River.

The Burlington Northern Santa Fe Railroad Drawbridge provides a vertical clearance of 20.4 feet above normal pool in the closed to navigation position. Navigation on the waterway consists primarily of recreational watercraft. In order to repair the bridge console and associated electrical system, the bridge must be kept inoperative and in the

closed to navigation position. This deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 6, 2003.

**Roger K. Wiebusch,**

*Bridge Administrator.*

[FR Doc. 03-28815 Filed 11-18-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07-02-160]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Canaveral Barge Canal, Cape Canaveral, Brevard County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating regulations of the Christa McAuliffe Bridge, SR 3, across the Canaveral Barge Canal at Cape Canaveral, Florida. Under this final rule, the bridge need open only twice an hour from 6 a.m. to 10 p.m. for vessel traffic, except during the morning and evening rush hours when the bridge may remain closed to facilitate vehicular traffic. The rule will also require the bridge to open with 3 hours notice from 10:01 p.m. to 5:59 a.m. This change will improve the flow of vehicular traffic without significantly impacting the needs of navigation.

**DATES:** This rule is effective December 19, 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 [CGD07-02-160] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Room 432, Miami, FL 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Branch of the Seventh Coast Guard District maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415-6743.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On May 20, 2003, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Canaveral Barge Canal, Cape Canaveral, Brevard County, FL, in the **Federal Register** (68 FR 27504). We received two letters commenting on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

The Christa McAuliffe Bridge, SR 3, across the Canaveral Barge Canal is a twin, double bascule leaf bridge with a vertical clearance of 21.6 feet at mean high water and a horizontal clearance of 90.3 feet. The current operating regulations, published in 33 CFR 117.273(a), provide for the bridge to open on signal from 6 a.m. to 10 p.m. except that, from 6:15 a.m. to 7:45 a.m. and from 3:30 p.m. to 5:15 p.m., Monday through Friday, except Federal holidays, the bridge need not open for the passage of vessels. From 10:01 p.m. to 5:59 a.m., everyday, the bridge shall open on signal if at least three hours notice is given to the bridge tender. The bridge shall open as soon as possible for the passage of public vessels of the United States, tugs and tows and vessels in distress. The local residents requested a change to the current operating schedule to ease the flow of vehicular traffic on and off of Cape Canaveral through their neighborhood. On May 22, 2002, a temporary final rule was published in the **Federal Register** (67 FR 35903) to facilitate repairs to the bridge. In pertinent part, for four months, from 8:15 a.m. to 3 p.m., Monday through Friday except Federal holidays, the draw opened on the hour and half hour for the passage of vessels. This temporary change to the bridge openings for a limited time during the day met the reasonable needs of navigation and improved the flow of vehicular traffic in the neighborhood while facilitating repairs to the bridge. In addition, the difference between the number of bridge openings under the temporary rule and the historical number of bridge openings under the existing, permanent rule is minimal. Accordingly, based on the results of the temporary rule and the minimal difference in bridge openings, the final rule will meet the reasonable needs of navigation on this waterway.

### Discussion of Comments and Changes

We received two comments concerning this rule, one from the Florida Division of Historical Resources, which determined that this rule did not affect historical properties, and one from a concerned citizen, which stated that the rule would not relieve vehicular traffic congestion due to the dynamics of vehicular traffic routing problems in a nearby intersection. While the intersection in question may contribute to overall traffic difficulties, this rule will assist in easing traffic flow during peak vehicular hours of movement to and from Cape Canaveral.

### 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). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The final rule only slightly modifies the current closure periods, from 6:15 a.m. to 7:45 a.m. and 3:30 p.m. to 5:15 p.m., to 6:15 a.m. to 8:15 a.m. and 3:10 p.m. to 5:59 p.m. The final rule also continues to provide for regular openings, from 6 a.m. to 10 p.m., twice an hour, which results in almost the same number of openings provided under the existing rule.

### 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 would 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 (Pub. L. 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. 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 would not create an environmental risk to health or risk to safety that might 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 analyzed this rule under Commandant Instruction M16475.1D, 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 (32)(e), of the Instruction, from further environmental documentation. Coast Guard categorical exclusions include the promulgation of operating regulations for drawbridges by the Bridge Administration Program.

### 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. 499; Department of Homeland Security Delegation No. 0170.1; 33

CFR 1.05-1(g); Section 117.255 also issued under authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. § 117.273(a) is revised to read as follows:

**§ 117.273 Canaveral Barge Canal.**

(a) The draws of the Christa McAuliffe bridge, SR 3, mile 1.0, across the Canaveral Barge Canal need only open daily for vessel traffic on the hour and half-hour from 6 a.m. to 10 p.m.; except that from 6:15 a.m. to 8:15 a.m. and from 3:10 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the bridge need not open. From 10:01 p.m. to 5:59 a.m., everyday, the bridge shall open on signal if at least 3 hours notice is given to the bridge tender. The bridge shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in distress.

\* \* \* \* \*

Dated: October 31, 2003.

**Harvey E. Johnson, Jr.,**

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

[FR Doc. 03-28814 Filed 11-18-03; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[COTP San Diego 03-033]

RIN 1625-AA00

**Security Zone: Pacific Ocean, San Diego, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a security zone off the coast of Coronado and Imperial Beach in San Diego, California in support of naval military operations for the purposes of national security. This security zone is necessary to protect the vessels and crew involved in these military operations. Persons and vessels are prohibited from entering into, transiting through, loitering, or anchoring within this security zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 8 a.m. (p.s.t.) on November 10, 2003, until 11:59 p.m. (p.s.t.) on November 21, 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 [COTP San Diego 03-033] and are available for inspection or copying at Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, CA 92101-1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Austin Murai, USCG, c/o U.S. Coast Guard Captain of the Port, telephone (619) 683-6495

**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. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to protect the vessels and crew involved in this operation.

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**.

Due to complex planning and national security reasons, information regarding the precise location and date of the event necessitating promulgation of this security zone and other logistical details surrounding the event were not provided until a date fewer than 30 days prior to the event. Due to the sensitive nature of the operations involved, it was necessary for this information to be finalized at a later date.

**Background and Purpose**

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and Iraq have made it prudent to U.S. ports to be on a higher state of alert because Al-Qaeda and other organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions,

including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels or public or commercial structures.

The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

In this particular rulemaking, to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against naval vessels and personnel would have on the public interest, the Coast Guard is establishing a security zone off the coast of San Diego.

The security zone consists of the navigable waters of the Pacific Ocean off San Diego, California in the areas known locally as Coronado and Imperial Beach. The exact coordinates can be found in the regulatory text.

This rule is effective from 8 a.m. (p.s.t.) on November 10, 2003, until 11:59 p.m. (p.s.t.) on November 21, 2003.

Persons and vessels are prohibited from entering into, transiting through, loitering, or anchoring within this security zone unless authorized by the Captain of the Port, or his designated representative.

**Discussion of Rule**

The United States Navy will be conducting military operations on the navigable waters of the Pacific Ocean off the coast of San Diego, California. Persons and vessels are prohibited from entering into this security zone unless authorized by the Captain of the Port or his designated representative. Each person and vessel in a security zone shall obey any direction or order of the COTP. The COTP may remove any person, vessel, article, or thing from a security zone. No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the COTP.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000) and in rem liability against