

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: a. does not have an annual effect 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.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule 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. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a

determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 15, 2004.

Allen D. Klein,

Regional Director, Western Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 931 is amended as set forth below:

PART 931—NEW MEXICO

■ 1. The authority citation for part 931 continues to read as follows:

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

■ 2. Section 931.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

§ 931.15 Approval of New Mexico regulatory program amendments.

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| Original amendment submission date | Date of final publication | Citation/description |
|------------------------------------|---------------------------|---|
| * * * | * * * | * * * |
| October 27, 2003 | April 13, 2004 | 19.8.1.7.P(8) and (9); 19.8.1.7.T(2); 19.8.5.506.A, B, D, E, F, and G; 19.8.12.1200.A; 19.8.13.1300.B; 19.8.13.1301.A(1), B, C, and E(1) and E(2); 19.8.20.2073 (C), (D), (E), and (F) NMAC |

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–04–014]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway—Bayou Boeuf, Amelia, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the BNSF RR Swing Bridge across Bayou Boeuf, mile 10.2, at Amelia, St. Mary Parish, LA. This deviation allows the bridge to remain closed to navigation for six hours. The deviation is necessary to

repair and replace damaged portions of the bridge.

DATES: This deviation is effective from 8 a.m. until 2 p.m. on Thursday, April 29, 2004.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The BNSF RR has requested a temporary deviation in order to remove and replace damaged portions of the Bayou Boeuf Swing Bridge across Bayou Boeuf, mile 10.2, at Amelia, St. Mary Parish, LA. The repairs

are necessary to ensure the safety of the bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 8 a.m. until 2 p.m. on Thursday, April 29, 2004.

As the bridge has no vertical clearance in the closed-to-navigation position, vessels will not be able to transit through the bridge site when the bridge is closed. Navigation at the site of the bridge consists mainly of tows with barges and some recreational pleasure craft. Due to prior experience, as well as coordination with waterway users, it has been determined that this closure will not have a significant effect on these vessels. An alternate route is available by using the GIWW, Morgan City to Port Allen Alternate Route.

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: April 6, 2004.

Marcus Redford,

Bridge Administrator.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-04-066]

RIN 1625-AA00

Security Zone; Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and Its Tributaries

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing 500-yard temporary security zones throughout the Captain of the Port Philadelphia's area of responsibility around escorted passenger vessels in transit and 100-yard security zones around moored or anchored passenger vessels. The security zones are needed to ensure public safety and the safe transit of the passenger vessels in the Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries. The temporary moving security zones prohibit vessels from entering within a 500-yard radius of the escorted passenger vessels while in transit, and within a 100-yard radius of passenger vessels while moored or anchored, unless authorized by the Captain of the Port, Philadelphia, Pennsylvania, or his designated representative. These security zones are limited in duration and affect only certain passenger vessels and a small area at any given time.

DATES: This rule is effective from April 2, 2004, through September 1, 2004.

ADDRESSES: Documents as indicated in this preamble are available as part of docket CGD05-04-066 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania, 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

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 a NPRM. Publishing a NPRM and delaying the effective date would be contrary to the public interest, since immediate action is needed to continue to protect the public, ports and waterways of the United States.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying the effective date would be contrary to the public interest, since immediate action is needed to continue to protect the public, ports and waterways of the United States. The Coast Guard was notified on March 29, 2004, of scheduled port calls by passenger vessels, making it impracticable for the safety of passenger vessels and mariners to delay publishing this security zone.

The Coast Guard plans to publish a NPRM proposing a permanent rule for security zones around passenger vessels and requesting public comment.

Background and Purpose

The terrorist attacks of September 11, 2001 highlighted the need for heightened security measures at United States seaports. The President has found, pursuant to law, including the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the attacks. The Captain of the Port of Philadelphia has determined that security zones are necessary to protect the public, the waterway, and passenger vessels from potential subversive acts.

Discussion of the Regulation

This temporary rule establishes 100-yard security zones around moored or anchored passenger vessels and 500-yard security zones around escorted passenger vessels while transiting the Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries. The Captain of the Port, Philadelphia, Pennsylvania's zone extends out in the Atlantic Ocean from the shoreline to 12 miles. For purposes of this rule, "passenger vessel" is defined as a vessel greater than 100 feet in length, over 100 gross tons, and that is authorized to carry 500 or more passengers, making voyages lasting more than 24 hours, except for a ferry. No vessels or persons may come within

a 500-yard radius of an underway, escorted passenger vessel, nor come or remain within a 100-yard radius of a moored or anchored passenger vessel without the permission of the Captain of the Port, Philadelphia, Pennsylvania or his designated representative.

These zones will be enforced around moving escorted passenger vessels and stationary passenger vessels while they are within the Captain of the Port of Philadelphia zone. A Broadcast Notice to Mariners will be issued to notify mariners to aid them in making alternate plans for transiting the affected waterway.

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 primary impact of this rule will be on vessels wishing to transit the affected waterway in the vicinity of passenger vessel security zone. Although this rule restricts traffic from freely transiting portions of the Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries, the restrictions are limited in duration and affect only a limited area.

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.

This rule may affect the following entities, some of which may be small entities: owners or operators of vessels wishing to transit the affected waterways of the Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries.

The rule will not have a significant impact on a substantial number of small entities for the following reasons: the restrictions are limited in duration and