

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[CGD05-05-108]

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, Inside Thorofare, Ventnor City, NJ**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Dorset Avenue Bridge, at New Jersey Intracoastal Waterway (ICW) mile 72.1, across the Inside Thorofare at Ventnor City, New Jersey. To facilitate removal and replacement of deck lift spans, the temporary deviation would allow partial openings of the drawbridge.

DATES: This deviation is effective from 7 a.m. on October 3, 2005, to 11 p.m. on October 21, 2005.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6422. Commander (obr), Fifth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Gary Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6629.

SUPPLEMENTARY INFORMATION: The Dorset Avenue Bridge has a vertical clearance in the closed position of 9 feet at mean high water and 12 feet at mean low water.

A.P. Construction, Inc. on behalf of Atlantic County, which owns and operates this double-leaf bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.733(h) to facilitate deck repairs.

During this temporary deviation, deck repairs will require immobilizing half of the draw span. From 7 a.m. to 11 p.m. beginning on October 3, 2005 until and including October 21, 2005, single leaf openings will be provided on signal. Only double leaf openings will be provided from 11 p.m. to 7 a.m. Full openings will be provided at any time when at least two hours advance notice

is given to the bridge tender at (609) 822-1805 or via marine radio on channel 13 VHF. At all other times, the draw shall open on signal.

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: August 23, 2005.

Waverly W. Gregory, Jr.,
Chief, Bridge Administration Branch Fifth Coast Guard District.

[FR Doc. 05-17715 Filed 9-6-05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[COTP Lower Mississippi River-05-008]

RIN 1625-AA00

Safety Zone; Lower Mississippi River (LMR), Greenville, MS**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Lower Mississippi River. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the New Greenville Bridge construction. Entry into this zone is prohibited to all vessels and mariners unless specifically authorized by the Captain of the Port (COTP) Lower Mississippi River or a designated representative.

DATES: This rule is effective from July 18, 2005, until November 14, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Lower Mississippi River-05-008] and are available for inspection or copying at Sector Lower Mississippi River, 2 Auction Avenue, Memphis, Tennessee, 38105 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Ray Bartlett, Sector Lower Mississippi River Waterways Management Branch, at (901) 544-3912 extension 2227.

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, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest because immediate action is needed to protect vessels and mariners from the safety hazards associated with the New Greenville Bridge construction. The Coast Guard first learned on July 6, 2005 that there would be construction and a need for a safety zone.

Background and Purpose

On July 06, 2005, U.S. Coast Guard Sector Lower Mississippi River was notified by the contractor (Massman/Traylor, a Joint Venture) that the New Greenville Bridge (mile 529.8) would be having deck plates installed from a crane on a barge. COTP Lower Mississippi River consulted the Lower Mississippi River Commission (LOMRC) to analyze impacts to commercial traffic in the vicinity of the New Greenville Bridge and determine that this safety zone is needed to protect the construction crews, vessels, and mariners from the additional construction hazards associated with the installation of the deck plates using a crane located on a barge in the river under the bridge.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for all waters of the Lower Mississippi River (LMR) from mile marker 529.8 to mile marker 532.3 extending the entire width of the river. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the crane lifting deck plates into position during the bridge construction. Entry into this zone is prohibited to all vessels and mariners unless specifically authorized by the COTP Lower Mississippi River or a designated representative. Specific dates and times for river closures will be announced via Safety Marine Information Broadcast (SMIB) and are expected to last for a period of eight hours from 8:30 a.m. to 5:30 p.m.

The COTP Lower Mississippi River may be contacted by telephone at (901) 544-3912 extension 2124. The COTP Lower Mississippi River or a designated representative will inform the public through Broadcast Notice to Mariners of changes in the effective period for the safety zone. This rule is effective from July 18, 2005 until November 14, 2005.

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).

This rule will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notice to mariners. The impacts on routine navigation are expected to 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 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 that would be required to operate between mile marker 529.8 and mile marker 532.3, from July 18, 2005 to November 14, 2005. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect for a short period of time.

If you are a small business entity and are significantly affected by this regulation please contact Chief Warrant Office Ray Bartlett, Sector Lower Mississippi River Waterways Management Branch, at (901) 544–3912 extension 2227.

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 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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 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 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 final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this final 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)(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in NEPA.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation no. 0170.1.

■ 2. A new temporary § 165.T08-153 is added to read as follows:

§ 165.T08-153 Safety Zone; Lower Mississippi River, Mile Marker 529.8 to Mile Marker 532.3, Greenville, MS.

(a) *Location.* The following area is a safety zone: all waters of the Lower Mississippi River (LMR), beginning at mile marker 529.8 and ending at mile marker 532.3, extending the entire width of the river.

(b) *Effective dates.* This section is effective from 8 p.m. on July 18, 2005 until 10 p.m. on November 14, 2005.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone by vessels or mariners is prohibited unless authorized by the COTP Lower Mississippi River or a designated representative.

(2) Persons or vessels requiring entry into or passage through must request permission from the COTP Lower Mississippi River or a designated representative. They may be contacted on VHF-FM Channel 16, or by telephone at (901) 544-3912, extension 2124.

(3) All persons and vessels shall comply with the instructions of the COTP Lower Mississippi River and designated personnel. Designated personnel include commissioned,

warrant, and petty officers of the U.S. Coast Guard.

Dated: July 18, 2005.

P.J. Maguire,

Commander, U.S. Coast Guard, Captain of the Port Lower Mississippi River.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

[WO-310-1310-PB-24-1A]

RIN 1004-AD71

Oil and Gas Leasing: Onshore Oil and Gas Operations—Fees, Rentals and Royalty Stripper Well Royalty Reductions Retention of Records

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is revising the regulations to require that records supporting a stripper well royalty reduction be retained for seven years from the last date that an operator claims the reduction.

DATES: This rule is effective on September 7, 2005.

FOR FURTHER INFORMATION CONTACT:

Rudy Baier, Fluid Minerals Group, Bureau of Land Management, (202) 452-5024 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, seven days a week, except holidays, for assistance in reaching Mr. Baier.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Final Rule as adopted
- III. Procedural Matters

I. Background

The existing regulation at 43 CFR 3103.4-2 authorizes the operator of a stripper well property to pay a reduced royalty tied to the lowest average production of oil per eligible well per well-day for any 12-month period since the initial qualifying period of August 1, 1990 through July 31, 1991. The regulations permit the operator to use the reduced royalty rate upon certifying that the royalty rate was calculated under the instructions and procedures in the regulations using reports of oil production and well-days for the qualifying period. However, current

regulations do not require a submission of supporting evidence or specify the retention of records supporting the reduced royalty.

The Inspector General of the Department, as well as several States, have expressed concern about the inability of auditors to confirm the validity of the claimed production per eligible well per well day during the qualifying period, if it were more than seven years after the qualifying period. Although August 1990 through July 1991 production may be the basis for the royalty rate claimed after September 1992, some operators have inferred from the absence of specific regulatory requirements that they need not retain those records more than seven years from July 1991.

The Secretary is authorized under 30 U.S.C. 1713 and 1724(f) to require the retention of records for seven years from the date of the transactions for which they are required for "determining compliance with rules or orders" or "for the purpose of determining obligations due." Since the royalty rate for stripper well properties depends on the lowest level of production per well since the "qualifying period," BLM is revising the regulations to require that records of production (on which the claimed royalty rate is based) be retained for seven years after the benefit of the reduced royalty is last claimed.

II. Final Rule as Adopted

This rulemaking establishes a requirement that records supporting the reduced royalty rate claimed under 43 CFR 3103.4-2 be retained for seven years from the last date on which the operator is relying upon it to support its royalty rate.

III. Procedural Matters

Waiver of Notice of Proposed Rulemaking

Waiver of 30-Day Delay of Effective Date

In accordance with 5 U.S.C. 553, BLM finds that notice and public comment on this rule is contrary to the public interest, as that concept is defined in 5 U.S.C. 553(b)(3)(B), because to provide advance notice of the requirement prior to its effectiveness would frustrate the public interest, by allowing operators with questionable claims to royalty relief to destroy, without penalty, records in their possession that might document their ineligibility for the royalty relief claimed. The risk of destruction of records is also good cause to waive the 30-day delay of the effective date.