

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

[CGD11-06-003]

RIN 1625-AA09

**Drawbridge Operation Regulation; Carquinez Strait, Benicia and Martinez, CA****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Benicia-Martinez Railroad Drawbridge across the Carquinez Strait, mile 7.0, between Benicia and Martinez, CA. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period. This deviation is necessary for the bridge owner, Union Pacific Railroad Company, to perform essential cable replacement and repair work at the bridge.

**DATES:** This deviation is effective from 7 a.m. on April 17, 2006 to 5 p.m. on April 21, 2006.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50-3, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Section office maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

**SUPPLEMENTARY INFORMATION:** On March 13, 2006, the Union Pacific Railroad Company requested a temporary change to the operation of the Benicia-Martinez Railroad Drawbridge, mile 7.0, Carquinez Strait, between Benicia and Martinez, CA. The Benicia-Martinez Railroad Drawbridge navigation span provides vertical clearance of 70 feet above Mean High Water in the closed-to-navigation position. Presently, the draw opens on signal as required by 33 CFR 117.5. Navigation on the waterway consists of both commercial and recreational watercraft. The Union Pacific Railroad Company requested the drawbridge be allowed to remain closed to navigation from 7 a.m. on April 17, 2006 to 5 p.m. on April 21, 2006. During

this time replacement and repair to the bridge cables, and associated maintenance on the lift assembly, will occur. This temporary drawbridge deviation has been coordinated with the waterway users. No objections to the proposed temporary rule were raised. Vessels can pass underneath the bridge in the closed position. The drawbridge can open in an emergency upon five hours advance notice.

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

Dated: March 30, 2006.

**Robert C. Lorigan,***Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.*

[FR Doc. 06-3562 Filed 4-12-06; 8:45 am]

**BILLING CODE 4910-15-P****DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD09-06-017]

RIN 1625-AA00

**Safety Zone; Maple-Oregon Bridge Boring Program, Sturgeon Bay Ship Canal, Sturgeon Bay, WI****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Sturgeon Bay Ship Canal in Sturgeon Bay, WI. This zone is intended to restrict vessels from a portion of the Sturgeon Bay Ship Canal during the Maple-Oregon Bridge Boring Program. This temporary safety zone is necessary to protect vessels from hazards associated with underwater drilling operations.

**DATES:** This rule is effective from 5:30 a.m. (local), March 30, 2006 until 10 p.m. (local), April 28, 2006.

**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 [CGD09-06-017] and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 S. Lincoln Memorial Dr, Milwaukee, WI, 53207 between 7 a.m. (local) and 3:30 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, at (414) 747-7154.

**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. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. 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**. Delaying this rule would be contrary to the public interest of ensuring the safety and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

**Background and Purpose**

This safety zone is necessary to ensure the safety of vessels transiting the Sturgeon Bay Ship Canal and the workers on the Teng and Associates Drilling Barge Configuration. Based on accidents that have occurred in other Captain of the Port zones, and the hazards associated with underwater drilling, the Captain of the Port Lake Michigan has determined underwater drilling operations in close proximity to vessel traffic pose significant risk to public safety and property. Establishing a safety zone to control vessel movement around the location of the Teng and Associates Drilling Barge Configuration will help ensure the safety of persons and property during these operations and help minimize the associated risks.

**Discussion of Rule**

A temporary safety zone is necessary to ensure the safety of vessels transiting the Sturgeon Bay Ship Canal and workers on the Teng and Associates Drilling Barge Configuration. The safety zone will be in effect from 5:30 a.m. (local), March 30, 2006 until 10 p.m. (local), April 28, 2006.

The safety zone will encompass all waters of the Sturgeon Bay Ship Canal within 50-ft of the Teng and Associates Drilling Barge Configuration. The Captain of the Port Lake Michigan, or his designated on-scene representative, has the authority to terminate the event.

All persons and vessels shall comply with the instructions of the Captain of the Port Lake Michigan or the

designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on-scene representative. The Captain of the Port or his designated representative may be contacted at the Sector Lake Michigan Command Center via landline at 414-747-7182 or via VHF Channel 16.

#### 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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

#### 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 and operators of vessels intending to transit or anchor in a portion of the Sturgeon Bay Ship Canal approximately 700 ft. south of the Michigan Avenue Bridge in Sturgeon Bay, WI on each day from March 30th and April 28th, 2006.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect when there is little to no recreational and commercial vessel

traffic. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

#### 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).

#### 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 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 would 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. The Administrator of the office of Information and Regulatory Affairs has not designated it 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 procedure; and related management

system practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

#### List of Subjects in 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 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. A new temporary section 165.T09–017 is added as follows:

#### § 165.T09–017 Safety zone; Maple-Oregon Bridge Boring Program, Sturgeon Bay Ship Canal, Sturgeon Bay, WI.

(a) *Location.* The following area is a temporary safety zone: All waters of the Sturgeon Bay Ship Canal within 50-ft of the drilling rig.

(b) *Effective period.* This rule is effective from 5:30 a.m. (local), March 30, 2006 until 10 p.m. (local), April 28, 2006. This zone will be enforced during the entire effective period.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted by calling the Coast Guard Sector Lake Michigan Command Center at 414–747–7182 or VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: March 30, 2006.

**S.P. LaRochelle,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.*

[FR Doc. 06–3512 Filed 4–12–06; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD17–05–002]

RIN 1625–AA87

#### Security Zone; High Capacity Passenger Vessels and Alaska Marine Highway System Vessels in Alaska

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent moving security zones around all escorted High Capacity Passenger Vessels (“HCPV”) and escorted Alaska Marine Highway System Vessels (“AMHS vessels”) during their transits in the navigable waters of the Seventeenth Coast Guard District. All commercial fishing vessels, as defined by applicable United States

Code, are exempt from the provisions of this rule only while they are actively engaged in fishing.

**DATES:** This final rule is effective May 15, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket are part of docket CGD17–05–002 and are available for inspection or copying at United States Coast Guard, District 17 (dpi), 709 West 9th Street, Juneau, AK 99801 between 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Matthew York, District 17 (dpi), 709 West 9th Street, Juneau, AK 99801, (907) 463–2821.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On March 9, 2005, we published a notice of proposed rulemaking (NPRM) entitled “Regulated Navigation Area and Security Zones; High Capacity Passenger Vessels in Alaska” in the **Federal Register** (70 FR 11595), docket number CGD17–05–002. The NPRM included provisions for a 250-yard speed restriction zone, a 25-yard security zone around moored and anchored vessels, and a waiver request process.

On October 31, 2005, we published a Supplemental Notice of Proposed Rulemaking (SNPRM) entitled “Security Zone; High Capacity Passenger Vessels and Alaska Marine Highway System Vessels in Alaska” in the **Federal Register** (70 FR 62261), docket number CGD17–05–002. The SNPRM removed those three provisions from the proposed rule. The revised proposed security zone was then limited to High Capacity Passenger Vessels (HCPV) and Alaska Marine Highway System Vessels (AMHS) vessels during transit in the waters of the Seventeenth Coast Guard District. The SNPRM proposed the security zones would only apply to HCPV and AMHS vessels transiting under an escort as defined in the SNPRM. These permanent security zones were carefully designed to minimally impact the public while providing protections for HCPV and AMHS vessels.

On February 28, 2006, the Coast Guard published a Second Supplemental Notice of Proposed Rulemaking (SSNPRM) entitled, “Security Zone; High Capacity Passenger Vessels and Alaska Marine Highway System Vessels in Alaska” in the **Federal Register** (71 FR 9984), docket number CGD17–05–002. The