

■ 4. Table Five of § 706.2 is amended by adding, in numerical order, the

following entry for USS TRUXTUN (DDG 103):

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

| Vessel | Number | Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f) | Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a) | After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a) | Percentage horizontal separation attained |
|-------------------|---------------|--|--|--|---|
| USS TRUXTUN | DDG 103 | X | X | X | 14.6 |
| * | * | * | * | * | * |

Approved: June 13, 2008.

M. Robb Hyde,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0315]

RIN 1625-AA11

Regulated Navigation Area; Chesapeake and Delaware Canal, Chesapeake City Anchorage Basin, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) in certain waters of the Chesapeake and Delaware (C & D) Canal, within the anchorage basin at Chesapeake City, Maryland, on June 28, 2008. This RNA is necessary to provide for the safety of life, property and the environment. This RNA restricts the movement of vessels throughout the anchorage basin during the Town of Chesapeake City's Canal Day 2008 event.

DATES: This rule is effective from 8 a.m. on June 24, 2008 through 12 p.m. on June 29, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0315 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: The Docket

Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and U. S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226-1791 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have any questions on this temporary rule, call Mr. Ronald L. Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576-2674 or (410) 576-2693. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone number (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to prevent vessel traffic from transiting the specified waters to provide for the safety

of life and property on navigable waters. Additionally, the RNA should have minimal impact on vessel transits due to the fact that vessels can safely transit through the RNA when authorized by the Captain of the Port or his Representative and that they are not precluded from using any portion of the waterway except the RNA itself.

For the same reasons above, 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**.

Background and Purpose

On the last Saturday in June, thousands of people attend the Town of Chesapeake City's Canal Day outdoor waterfront festival, located adjacent to the C & D Canal anchorage basin at Chesapeake City, Maryland. The event began in 1975 as an arts festival to raise funds for local organizations. Due to the growing presence of visiting boaters in recent years, the event has become increasingly congested. The last Canal Day on June 30, 2007 brought an estimated 400 boats and 10,000 visitors to Chesapeake City, a town with a population of 800. An estimated 325 recreational boats were anchored or moored alongside other boats (rafted). These boats accounted for approximately 600 visitors. Persons on recreational vessels or other water craft began arriving on the Wednesday before the festival, and by that evening, large lines of rafted boats filled the anchorage basin, the size of which is approximately 420 yards in length and 170 yards in width. By Thursday afternoon, two days before Canal Day, the gathering of persons and vessels exceeded a safe limit. On a typical weekend, ten to fifteen boats anchor in the basin. Accidental drownings, personal injuries, boat fires, boat capsizings and sinkings, and boating

collisions all are a safety concern during such overcrowded events. Access on the water for emergency response is critical. The Coast Guard has the authority to impose appropriate controls on activities that may pose a threat to persons, vessels and facilities under its jurisdiction. The Coast Guard is establishing a temporary RNA that will be enforced during a waterfront festival held in the C & D Canal, within the anchorage basin at Chesapeake City, Maryland. This rule is needed to control movement within a waterway that is expected to be populated by persons and vessels seeking to attend the Canal Day 2008 festival.

Discussion of Rule

On June 28, 2008, the Town of Chesapeake City, Maryland will sponsor an outdoor festival located adjacent to the C & D Canal anchorage basin, at Chesapeake City, Maryland. The planned event is a one-day waterfront festival, held during daytime and nighttime hours. The Coast Guard anticipates a large recreational boating fleet during this event. Due to the need for vessel control before, during and after the scheduled event, vessel traffic will be restricted to provide for the safety of persons and vessels within the anchorage basin and transiting vessels within the C & D Canal.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards associated with a large gathering of recreational vessels and other watercraft in a confined area with swimmers and others present. This rule proposes to establish a temporary RNA within the C & D Canal anchorage basin, located at Chesapeake City, Maryland. The rule will impact the movement of all persons and vessels in the C & D Canal anchorage basin, and will limit the density of vessels and other watercraft operating, remaining or anchoring within the C & D Canal anchorage basin at the discretion of the Captain of the Port, Baltimore, Maryland, to ensure an open water route remains accessible to law enforcement and emergency personnel during the effective period. Public vessels, and vessels and other watercraft moored to piers or docks located within the anchorage basin, will not contribute to the density determination. Interference with normal port operations is unlikely; however, if required, interference with normal port operations will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

Though the RNA will be in effect for four days, commercial traffic in the C & D Canal anchorage basin is limited, and vessels transiting the C & D Canal may proceed safely around the Regulated Navigation Area. Additionally, the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

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 intending to operate, remain or anchor within the C & D Canal anchorage basin, in Chesapeake City, Maryland, from 8 a.m. on June 24, 2008 through 12 p.m. on June 29, 2008. This temporary RNA will not have a significant economic impact on a substantial number of small entities for the following reasons. Though this rule will be in effect for four days, commercial vessel traffic in this area is limited. Although the RNA applies to the entire anchorage basin, traffic would be allowed to pass within the RNA with the permission of the Coast Guard Captain of the Port Baltimore, Maryland. Vessels transiting the C & D Canal may proceed safely around the RNA. Also, the Coast Guard will issue maritime advisories widely available to users of

the waterway before the effective period.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer 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 the 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 would call 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. 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 procedures; and related management systems 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 and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded, under the Instruction, 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 (34)(g) of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" supporting this 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 recordkeeping requirements, Security measures, and 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, 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. Add temporary § 165.T05–0315 to read as follows:

§ 165.T05–0315 Regulated Navigation Area; Chesapeake and Delaware Canal, Chesapeake City Anchorage Basin, MD.

(a) *Location.* The following area is a regulated navigation area: All waters of the Chesapeake and Delaware (C & D) Canal, surface to bottom, within the anchorage basin at Chesapeake City, Maryland.

(b) *Definition.* The Captain of the Port Baltimore Maryland means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations.* The general regulations governing regulated

navigation areas, found in Sec. 165.13, apply to the regulated navigation area described in paragraph (a) of this section.

(1) Vessels and other watercraft operating, remaining or anchoring within the regulated navigation area are limited, at the discretion of the Captain of the Port, Baltimore Maryland, to a vessel density that ensures an open water route remains accessible to law enforcement and emergency personnel. Public vessels, and vessels and other watercraft moored directly alongside piers or docks located within the regulated navigation area, will be excluded from consideration in the density assessment.

(2) All vessels and persons are prohibited from entering this regulated navigation area, except as authorized by the Captain of the Port Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage within the regulated navigation area must request authorization from the Captain of the Port, Baltimore Maryland by telephone at (410) 576–2693 or by marine band radio on VHF-FM Channel 16 (156.8 MHz) on the day of this event, June 28, 2008.

(4) All Coast Guard vessels enforcing this regulated navigation area can be contacted on marine band radio VHF-FM Channel 16 (156.8 MHz).

(5) The operator of any vessel located within or in the immediate vicinity of this regulated navigation area shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Enforcement Period:* This section will be effective from 8 a.m. on June 24, 2008 through 12 p.m. on June 29, 2008.

Dated: June 19, 2008.

Fred M. Rosa Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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