

mean low water. The existing regulations are listed at 33 CFR 117.205.

The owner of the bridge, National Railroad Passenger Corporation (Amtrak), requested a temporary deviation to facilitate scheduled mechanical maintenance, tread and track plate replacement, at the bridge.

Under this temporary deviation the bridge may remain in the closed position as follows:

From 6 a.m. on December 5, 2008 through 6 a.m. on December 8, 2008.

From 6 a.m. on December 12, 2008 through 6 a.m. on December 15, 2008.

From 6 a.m. on December 19, 2008 through 6 a.m. on December 22, 2008.

From 6 a.m. on January 2, 2009 through 6 a.m. on January 5, 2009.

From 6 a.m. on January 9, 2009 through 6 a.m. on January 12, 2009.

From 6 a.m. on January 16, 2009 through 6 a.m. on January 19, 2009.

From 6 a.m. on January 23, 2009 through 6 a.m. on January 26, 2009.

Vessels that can pass under the draw without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 10, 2008.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E8-27842 Filed 11-21-08; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2008-1084]

#### Drawbridge Operation Regulations; Jamaica Bay, New York, NY, Maintenance

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Beach Channel Railroad Bridge at mile 6.7, across Jamaica Bay, at New York City, New York. Under this temporary deviation the Beach Channel Railroad Bridge may remain in the closed position for two weekends in December. This deviation

is necessary to facilitate bridge track repairs.

**DATES:** This deviation is effective from December 6, 2008 through December 14, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-1084 and are available online at <http://www.regulations.gov>. They are 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 the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The Beach Channel Railroad Bridge, across Jamaica Bay, mile 6.7, at New York, New York, has a vertical clearance in the closed position of 26 feet at mean high water and 31 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.5.

The owner of the bridge, New York City Transit Authority, requested a temporary deviation to facilitate maintenance repairs to the bridge rails.

Under this temporary deviation the Beach Channel Railroad Bridge need not open for the passage of vessel traffic on Saturday and Sunday between 6 a.m. and 9 p.m., on December 6, 7, 13, and 14, 2008.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 10, 2008.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E8-27843 Filed 11-21-08; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-1081]

RIN 1625-AA00

#### Safety Zone: Oregon Inlet, North Carolina, Dredge Project

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around the Dredge R.S. Weeks during dredging operations in Oregon Inlet, North Carolina. This safety zone will enhance the safety of vessels transiting Oregon Inlet, North Carolina during periods of dredging operations. This project is being undertaken to increase the water depth in Oregon Inlet, North Carolina to 14 feet. Entry into the safety zone is prohibited unless authorized by the Captain of the Port, North Carolina.

**DATES:** This rule is effective from 8 a.m. on November 7, 2008 through 5 p.m. November 30, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-1081 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2008-1081 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are 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 the United States Sector North Carolina, 2301 East Fort Macon Road, Atlantic Beach, North Carolina 28512 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call CWO4 Stephen Lyons, Waterways Management Division Chief, Sector North Carolina, at (252) 247-4570. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 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 the publishing of an NPRM would be impracticable and contrary to public interest since immediate action is needed to protect the maritime public from the hazards associated with the dredge project in Oregon Inlet, North Carolina.

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**. Delaying the effective date would be contrary to public interest, since immediate action is needed to ensure the public's safety.

## Background and Purpose

Due to the dynamic nature of Oregon Inlet, near continuous dredging and frequent realignment of the approach channel east of the Herbert C. Bonner Bridge have become routine. Passage of tropical storms and strong low pressure systems accelerate the shoaling and need for maintenance dredging. The Federal Navigation Project is maintained by the U.S. Army Corps of Engineers (USACE) through the employment of USACE assets or by contracts issued and administered by the USACE. The Army Corps of Engineers has contracted Weeks Marine Inc. of Covington, LA to perform maintenance dredging in Oregon Inlet, NC. The contractor will be utilizing the 280 foot hydraulic Dredge R.S. Weeks. The dredge has a 65 foot beam and uses a 30 inch diameter 1600 foot floating discharge line that will be connected to a submerged shore connection. During periods of operation the dredge may reduce the available horizontal clearance of Oregon Inlet by 1880 feet and may entirely obstruct the navigational channel to vessel traffic. Vessel use of the alternate spans will not be sanctioned by the Coast Guard because the alternate spans are not clearly marked by navigational aids. In addition, due to concerns about the structural integrity of the bridge,

potential vessel strikes, and the absence of a fender system in the alternate spans, the only safe passage for vessels is through the main navigational span.

## Discussion of Rule

This safety zone is necessary to safeguard mariners from the hazards associated with dredging on the waters of Oregon Inlet, North Carolina. This regulation establishes a 100 yard moving safety zone on the waters of Oregon Inlet around the perimeter of the Dredge R.S. Weeks during dredging operations. In addition, it establishes a 50 yard safety zone around the perimeter of the floating discharge line which leads from the dredge to the submerged shore connection. Entry into these zones will be prohibited unless authorized by the Captain of the Port.

Alternate routes for any vessel wishing to transit through Oregon Inlet include traveling through Hatteras Inlet, Beaufort Inlet, or through the Atlantic Intracoastal Waterway.

Law enforcement, aids to navigation, and other waterway maintenance vessels are specifically exempt from this regulation.

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.

Although this regulation will restrict access to Oregon Inlet, the effect of this rule will not be significant because: (i) The safety zones only restrict vessels during dredging operations; (ii) the Coast Guard will make extensive notifications of the safety zone to the maritime public via maritime advisories so mariners can adjust their plans accordingly; (iii) the safety zones will be in effect for a limited duration of time; and (iv) mariners will have alternate routes to transit through Oregon Inlet, including traveling through Hatteras Inlet, Beaufort Inlet, or through the Atlantic Intracoastal Waterway.

## 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 vessels intending to transit on the waters of Oregon Inlet, North Carolina from 8 a.m. on November 7, 2008 through 5 p.m. on November 30, 2008. Although the safety zones will apply to the waters of the Oregon Inlet the zones will not have significant impact on small entities because the safety zones only restrict vessels during dredging operations, the Coast Guard will make extensive notifications of the safety zone to the maritime public via maritime advisories so mariners can adjust their plans accordingly, the safety zones will be in enforced for a limited duration of time, and mariners will have alternate routes to transit through Oregon Inlet, including traveling through Hatteras Inlet, Beaufort Inlet, or through the Atlantic Intracoastal Waterway.

## 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 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 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 Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, 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. An environmental analysis checklist and a categorical exclusion determination are 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, Waterways.

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

## PART 165—SAFETY ZONES

■ 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–1081 to read as follows:

### § 165.T05–1081 Safety Zone; Oregon Inlet, NC.

(a) *Definitions.* Captain of the Port Representative means the Commander, Sector North Carolina, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the Captain of the Port’s behalf.

(b) *Location.* The following area is a safety zone: Waters of Oregon Inlet within 100 yards of the Dredge R.S. Weeks and within 50 yards of the floating discharge line.

(c) *Regulations.* (1) The general regulations governing safety zones found in § 165.23 of this part apply to the safety zone described in paragraph (b) of this section.

(2) In accordance with the general regulations in section 165.23 of this part, entry into these safety zones is prohibited unless authorized by the Captain of the Port or a Captain of the Port Representative. All vessel movement within the safety zones is prohibited except as specifically authorized by the Captain of the Port or a Captain of the Port Representative.

(3) This section applies to all vessels operating within the safety zone except vessels that are engaged in the following operations:

- (i) Enforcing laws;
- (ii) Servicing aids to navigation; and
- (iii) Surveying, maintaining or improving waters in the safety zone.

(4) Any deviation from paragraph (c)(2) of this section due to extreme circumstances must be authorized by the Captain of the Port or a Captain of the Port representative. Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or a Captain of the Port representative to that vessel. To seek permission to transit the area, the Captain of the Port can be contacted at telephone number (252) 247–4570.

(5) Due to continual shoaling in Oregon Inlet, all vessels should use caution while transiting the area. Mariners are advised to view the latest U.S. Army Corps of Engineers survey

data prior to attempting to transit the area. Mariners can view the survey at <http://www.saw.usace.army.mil/nav/OREGON.htm>.

(6) Mariners are reminded that the fendered span of the Herbert C. Bonner Bridge is the only recommended route for passing under the bridge. Passing through any unfendered span presents a significant hazard to the vessel and the bridge.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the regulated navigation area by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 8 a.m. November 7, 2008, through 5 p.m. November 30, 2008.

Dated: November 7, 2008.

J.E. Ryan,

*Captain, U.S. Coast Guard, Captain of the Port, North Carolina.*

[FR Doc. E8-27844 Filed 11-21-08; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0912]

RIN 1625-AA00

#### Safety Zone; Fireworks Display, Potomac River, National Harbor, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone upon specified waters of the Potomac River. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a discharge barge located at National Harbor, in Prince Georges County, Maryland. This safety zone is intended to protect the maritime public in a portion of the Potomac River.

**DATES:** This rule is effective from 6:30 p.m. through 9:30 p.m. on November 28, 2008, and if necessary due to inclement weather, from 6:30 p.m. through 9:30 p.m. on November 29, 2008.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0912 and are available online at <http://www.regulations.gov>. They are 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 the Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On September 16, 2008, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Fireworks Display, Potomac River, National Harbor, MD" in the **Federal Register** (73 FR 53398). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. Delaying its effective date would be contrary to the public interest, because immediate action is needed to ensure the safety of the maritime public on the Potomac River against the hazards associated with fireworks displays, such as the accidental discharge of fireworks and falling hot embers or other debris.

##### Background and Purpose

Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The accidental discharge of fireworks and falling hot embers or other debris are a safety concern during such events. The Coast Guard has the authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The purpose of this rule is to promote maritime safety, and to protect mariners transiting the area from the potential hazards associated with a fireworks display. The rule is needed to ensure the safety of the maritime public in a portion of the waterway that is expected to be populated by vessel operators and persons seeking to view the fireworks display, as well as mariners operating unknowingly too close to the fireworks discharge site.

##### Discussion of Comments and Changes

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held. We will implement a temporary final rule with no changes to the NPRM.

##### 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. This exception is based on the fact that there is little vessel traffic associated with recreational boating and commercial fishing in the area during the enforcement period. Because the safety zone lies entirely outside the federal navigation channel, vessel operators may transit safely around the zone. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

##### 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 would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate, remain or anchor within certain waters of the Potomac River, at National Harbor, Maryland, from 6:30 p.m. through 9:30 p.m. on November 28, 2008, and if necessary due to inclement weather, from 6:30 p.m. through 9:30 p.m. on November 29, 2008. Because the zone is of limited duration, it is expected that there will be minimal disruption to the maritime community. Before the effective period, the Coast Guard will