

facilitate bridge rehabilitation repairs during two separate phases.

During the first phase of the temporary deviation, the SR127 Bridge may remain in the closed position from February 15, 2012 through March 8, 2012, to replace bridge stringers. At the end of the first phase the bridge will return to its regular operating schedule. During the second phase of the temporary deviation, the bridge may remain in the closed position from March 12, 2012 through April 10, 2012, to rehabilitate the bridge operating machinery. At the end of the second phase the bridge will return to its regular operating schedule.

The Gloucester Harbor Master and the local marinas were notified and no objections were received.

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 periods. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 25, 2012.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2012-2780 Filed 2-6-12; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2012-0017]

#### Drawbridge Operation Regulations; Cheesequake Creek, Morgan, NJ

**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 New Jersey Transit Rail Operation (NJTRO) Railroad Bridge across Cheesequake Creek, mile 0.2, at Morgan, New Jersey. Under this temporary deviation, the bridge may remain in the closed position for four days to facilitate scheduled bridge repairs.

**DATES:** This deviation is effective from 6 a.m. on February 11, 2012 through 12 p.m. on March 4, 2012.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2012-0017 and are available online at [www.regulations.gov](http://www.regulations.gov), inserting USCG-

2012-0017 in the "Keyword" and then clicking "Search". They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Joe Arca, Project Officer, First Coast Guard District, [joe.m.arca@uscg.mil](mailto:joe.m.arca@uscg.mil), or (212) 668-7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

The NJTRO railroad bridge has a vertical clearance of 3 feet at mean high water, and 8 feet at mean low water in the closed position. The existing drawbridge operating regulations are found at 33 CFR 117.709(b).

The bridge owner, New Jersey Transit Rail Operations (NJTRO), requested a bridge closure to facilitate structural track repairs at the bridge.

Under this temporary deviation, the NJTRO railroad bridge may remain in the closed position on two weekends from 6 a.m. on February 11, 2012 through 12 noon on February 12, 2012 and from 6 a.m. on February 25, 2012 through 12 noon on February 26, 2012.

In the event of inclement weather the above repairs will be undertaken on two alternate weekends from 6 a.m. on February 25, 2012 through 12 noon on February 26, 2012 and from 6 a.m. on March 3, 2012 through 12 noon on March 4, 2012.

Cheesequake Creek is predominantly a recreational waterway. The bridge rarely opens in the winter months when this temporary deviation will be in effect.

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

Dated: January 25, 2012.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2012-2778 Filed 2-6-12; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-1063]

RIN 1625-AA87

#### Moving Security Zone Around Escorted Vessels On the Lower Mississippi River Between Mile Marker 90.0 Above Head of Passes to Mile Marker 110.0 Above Head of Passes

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Captain of the Port of New Orleans (COTP New Orleans) has established moving security zones on the Mississippi River, from mile marker 90 through mile marker 110, extending 300 yards on all sides of vessels being escorted by one or more Coast Guard assets or other federal, state, or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia. This moving security zone regulation is necessary to protect vessels deemed to be in need of escort protection by the COTP New Orleans for security reasons. No person or vessel is permitted to enter or transit the security zones created by this temporary rule without permission of the COTP New Orleans.

**DATES:** This rule is effective from January 1, 2012, through March 31, 2012.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-1063 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1063 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email Lieutenant Commander (LCDR) Kenneth Blair, Sector New Orleans, Coast Guard; telephone 504-365-2392, email [Kenneth.E.Blair@uscg.mil](mailto:Kenneth.E.Blair@uscg.mil). 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. Certain vessels qualifying as vessels requiring security escorts will transit through the COTP New Orleans area of responsibility. Based on risk evaluations completed, and information gathered from November 26, 2011, to December 26, 2011, and after evaluating the security needs for escorted vessels, the Coast Guard determined that a security zone regulation is required, beginning January 1, 2012. This temporary final rule establishing moving security zones is needed to protect escorted vessels and personnel from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. The NPRM process would unnecessarily delay the effective dates and would be contrary to public interest by delaying or foregoing the necessary protections required for the escorted vessels and their personnel. The moving security zones established by this rulemaking are temporary. A rulemaking proposing to establish moving security zones on a permanent basis is anticipated; that rulemaking would provide notice and a comment period.

For these same reasons, 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**. This temporary final rule establishing moving security zones is needed to protect escorted vessels and personnel from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. A 30-day delayed-effective-date period would be contrary to the public interest because it would delay necessary protections required for these escorted vessels and personnel.

### Basis and Purpose

Certain vessels, including high capacity passenger vessels, vessels carrying certain dangerous cargoes as defined in 33 CFR part 160, tank vessels

constructed to carry oil or hazardous materials in bulk, and vessels carrying liquefied hazardous gas as defined in 33 CFR part 127 have been deemed by the COTP New Orleans to require escort protection during transit between mile marker 90.0 to mile marker 110.0 of the Lower Mississippi River. This temporary rule establishes moving security zones to assist and support the Coast Guard with the required vessel escorts between mile marker 90.0 to mile marker 110.0. These moving security zones extend 300 yards in all directions from the escorted vessels. Vessels will not be allowed to transit through these moving security zones without the permission of the Captain of the Port, New Orleans or the on-scene Coast Guard or enforcement agency asset. The moving security zones established by this temporary rule are necessary to protect escorted vessels and personnel from destruction, loss or injury from sabotage or other subversive acts, accidents or other causes of a similar nature.

### Discussion of Rule

Under the authority of the Magnuson Act, 50 U.S.C. 191–195, and 33 CFR part 6, the Coast Guard has established a moving security zone regulation to protect escorted vessels and personnel. While this temporary rule is effective, vessels are prohibited from transiting within 300 yards in all directions from each escorted vessel. Deviations from this rule may be requested from the Captain of the Port New Orleans through the on-scene Coast Guard or enforcement agency asset, via VHF Ch. 67 or the Coast Guard Vessel Traffic Center at (504) 365–2230. Notice of the moving security zones established by this temporary rule will be made through broadcast notices to mariners.

You may request permission of the COTP New Orleans or the on-scene Coast Guard or enforcement agency asset to enter the security zone. If permitted to enter the security zone, a vessel must proceed at the minimum safe speed and must comply with the order of the COTP New Orleans or the on-scene asset. No vessel may enter the inner 50-yard portion of the security zone closest to the vessel being escorted. The COTP New Orleans will inform the public of the existence or status of the security zones around escorted vessels in the regulated area by Marine Safety Information Bulletins or Broadcast Notice to Mariners. Coast Guard assets or other Federal, State or local law enforcement agency assets will be clearly identified by lights, vessel markings, or with agency insignia.

### 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.

Due to its duration and location the impacts of this rule 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, intending to transit in the vicinity of mile marker 90.0 through mile marker 110.0 of the Lower Mississippi River, extending 300 yards in all directions of an escorted vessel. This security zone regulation will not have significant impact on a substantial number of small entities because of its location and duration. If you are a small business entity and are significantly affected by this regulation please contact Lieutenant Commander (LCDR) Kenneth Blair, Sector New Orleans, at 504–365–2392, or email [Kenneth.E.Blair@uscg.mil](mailto:Kenneth.E.Blair@uscg.mil).

### 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 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 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 023-01 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction.

An environmental analysis checklist and a categorical exclusion determination will be made available and accessible in the docket as indicated in the **ADDRESSES** section.

#### 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. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.06-1, 6.05-6 and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08-040 is added to read as follows:

#### § 165.T08-040 Moving Security Zone, Escorted Vessels

(a) *Location.* The following areas are security zones: Navigable waters of the Lower Mississippi River, from mile marker 90.0 to mile marker 110.0, extending 300 yards in all directions of escorted vessels. Escorted vessels will be escorted by one or more Coast Guard assets or other federal, state, or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia.

(b) *Effective period.* This rule is effective from January 1, 2012, through March 31, 2012.

(c) *Regulation.* (1) Under the general regulations in § 165.33 of this part, vessels are prohibited from entering or transiting the security zones described in paragraph (a) of this temporary section, § 165.T08-040.

(2) If granted permission to enter a security zone, a vessel must operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Coast Guard. When within the security zone, no vessel or person is allowed within 50 yards of the escorted vessel unless authorized by the Coast Guard.

(3) Persons or vessels requiring deviations from this rule must request permission from the Captain of the Port New Orleans through the on-scene Coast Guard or other agency asset, via VHF Ch. 67 or the Coast Guard Vessel Traffic Center at (504) 365-2230.

(4) All persons and vessels granted permission to enter a security zone must comply with the instructions of the Captain of the Port New Orleans and designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard, and local, state, and federal law enforcement officers on clearly identified law enforcement agency vessels.

(d) *Informational broadcasts.* The Captain of the Port or a designated representative will inform the public through marine safety information bulletins or broadcast notices to mariners of this regulation.

Dated: December 27, 2011.

**J. J. Arenstam,**

*Captain, U.S. Coast Guard, Acting Captain of the Port New Orleans.*

[FR Doc. 2012-2674 Filed 2-6-12; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2010-0483-201201; FRL-9627-5]

#### Approval and Promulgation of Implementation Plans; State of Tennessee: Prevention of Significant Deterioration and Nonattainment New Source Review Rules: Nitrogen Oxides as a Precursor to Ozone

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve changes to the Tennessee State Implementation Plan (SIP), submitted by the Tennessee Department of Environment and Conservation (TDEC), through the Division of Air Pollution Control, to EPA on May 28, 2009. The SIP revision modifies Tennessee's New Source Review (NSR) Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) programs. The SIP revision addresses three related issues. First, the SIP revision updates Tennessee's SIP-approved regulations to incorporate NSR permitting requirements promulgated in the 1997 8-Hour Ozone national ambient air quality standards

(NAAQS) Implementation Rule NSR Update Phase II (hereafter referred to as the "Ozone Implementation NSR Update" or "Phase II Rule"). Second, Tennessee's May 28, 2009, SIP revision updates to Tennessee's PSD and NNSR permitting regulations regarding the addition of clean coal technology (CCT) provisions. Third, the SIP revision provides clarifying changes and corrections to portions of the Tennessee NSR rule. All changes in the SIP revision comply with federal NSR permitting regulations found at 40 CFR 51.165 and 51.166. EPA is approving Tennessee's May 28, 2009, SIP revision because it is in accordance with the Clean Air Act (CAA or Act).

**DATES:** *Effective Date:* This rule will be effective March 8, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-0483. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Tennessee SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Telephone number: (404) 562-9352; email address: [bradley.twunjala@epa.gov](mailto:bradley.twunjala@epa.gov). For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Telephone number: (404) 562-9214; email address: [adams.yolanda@epa.gov](mailto:adams.yolanda@epa.gov). For information regarding 8-hour ozone

NAAQS, contact Ms. Jane Spann, Regulatory Development Section, at the same address above. Telephone number: (404) 562-9029; email address: [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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##### I. Background

EPA is taking final action to approve changes to the Tennessee SIP such that it is consistent with federal requirements for NSR permitting.<sup>1</sup> On May 28, 2009, Tennessee submitted a SIP revision to EPA for approval which revised Tennessee's Air Quality Regulations, Chapter 1200-3-9—*Construction and Operating Permits, Rule Number .01—Construction Permit, .02—Operating Permits, and .03—General Provisions* to adopt federal PSD and NNSR requirements.<sup>2</sup> First, the SIP revision addressed requirements promulgated in the Phase II Rule including the following provisions: (1) Recognizing nitrogen oxides (NO<sub>x</sub>) emissions as ozone precursors; (2) adopting NNSR provisions for major stationary source thresholds for sources in certain classes of nonattainment areas for 8-hour ozone, carbon monoxide and particulate matter with a nominal aerodynamic diameter less than or equal to 10 microns (PM<sub>10</sub>); (3) addressing changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas; and (4) modifying provisions addressing offset requirements for facilities that shut down or curtail operation. Second, the SIP revision includes updates to the Tennessee PSD and NNSR permitting regulations regarding the adoption of CCT definitions at 1200-3-9. Lastly, the SIP revision includes clarifying changes and corrections to the State's rules at 1200-3-9-.01 through -.03.

EPA notes that Tennessee's May 28, 2009, submittal also includes the removal of provisions for clean units (CU) and pollution control projects (PCP) from the State's PSD and NNSR regulations that were submitted by the State to be consistent with then-applicable federal regulations. EPA did

<sup>1</sup> Tennessee's May 28, 2009, SIP revision also contained changes to Tennessee's SIP-approved NSR permitting regulations regarding "baseline actual emissions." At this time, EPA is not taking action on this portion of Tennessee's submission.

<sup>2</sup> Tennessee's May 28, 2009, SIP submittal also made changes to the State's title V regulations at 1200-3-9-.02(11). EPA is not taking action on Tennessee's revisions to the State's title V regulations at this time.