

This action is to provide enforcement action of the regulated area that will encompass portions of the navigable waterways. The location of the regulated area for this 1.2 mile long swim course, as stated in the latitude/longitude figures in 33 CFR 100.701, Table to § 100.701, Item (f)3, begins at the 5th Street Marina in Augusta, GA, and proceeds downriver to The Boathouse, 101 Riverfront Drive, Augusta, GA. Under the provisions of 33 CFR 100.701, all persons and vessels are prohibited from entering the regulated areas unless permission to enter has been granted by the COTP or designated representatives.

This notice of enforcement is issued under authority of 33 CFR 100.701 and 5 U.S.C. 552 (a). The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives. If the COTP Savannah determines that the regulated area need not be enforced for the full duration stated in this publication, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: September 1, 2016.

**A.M. Beach,**

*Commander, U.S. Coast Guard, Captain of the Port, Savannah.*

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**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket Number USCG-2016-0717]

**RIN 1625-AA08**

**Special Local Regulation; Ohio River, Madison, IN**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a special local regulation for all waters of the Ohio River, surface to bottom, extending from Ohio River mile 557.5 to 558.5 in Madison, IN on September 17 and September 18, 2016. This action is necessary to provide for the safety of life on these navigable waters near Madison, IN during the high-speed boat race on September 17 and September 18, 2016. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Ohio Valley or a designated representative.

**DATES:** This rule is effective from 8 a.m. on September 17, 2016 to 6 p.m. September 18, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type [USCG-2016-0717] in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Joshua Herriott, Sector Ohio Valley, U.S. Coast Guard; telephone 502-779-5343, email [Joshua.R.Herriott@uscg.mil](mailto:Joshua.R.Herriott@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

On February 03, 2016, the "5 to the 5" Vintage Hydros Organization notified the Coast Guard that it will be sponsoring a high-speed boat race from 8:00 a.m. to 6:00 p.m. on September 17 and September 18, 2016. The race will take place at Ohio River mile 557.5 to 558.5 in the vicinity of Madison, IN. The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with the high-speed regatta would be a safety concern for anyone within in the proposed regulated area.

The Coast Guard is issuing this temporary 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 there is not time to complete the NPRM process due to unforeseen administrative delays. This event has been advertised to the local community and waterway users and it would be impracticable solicit public comment for this event because it must be in place on September 17 and September 18, 2016.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. This rule is necessary for the safety of life during high-speed boat races on this section of navigable waters. It would be impracticable to delay this rule to provide a full 30 days notice because the event is scheduled and has been advertised to the local community to take place on September 17 and September 18, 2016.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Ohio Valley (COTP) has deemed the potential hazards associated with the high-speed boat races to occur September 17 and September 18, 2016 will be a safety concern for anyone within the regulated area. The purpose of this rulemaking is to ensure the safety of vessels and spectators within the regulated area before, during, and after the scheduled event.

**IV. Discussion of the Rule**

As noted above, the Coast Guard will establish a special local regulation from 8:00 a.m. to 6:00 p.m. on September 17 and September 18, 2016. The special local regulation will cover all navigable waters from mile 557.5 to 558.5 on the Ohio River in the vicinity of Madison, IN. The duration of the regulated area is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled event. No vessel or person will be permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative. Deviation requests will be considered and reviewed on a case-by-case basis. The COTP Ohio Valley may be contacted by telephone at 1-800-253-7475 or can be reached by VHF-FM channel 16. Public notifications will be made to the local maritime community prior to the event through the Local Notice to Mariners, and Broadcast Notice to Mariners.

**V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss the First Amendment rights of protestors.

**A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and

benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. Vessel traffic will be able to safely transit through the affected area before and after the scheduled event. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the regulated area and the rule allows vessels to seek permission to enter the area.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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. 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.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental Federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for Federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### E. 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. 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 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting from 8:00 a.m. to 6:00 p.m. on September 17 and September 18, 2016. It is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

- 2. Add § 100.35T08–0717 to read as follows:

#### § 100.35T08–0717 Special Local Regulation; Ohio River, Mile 557.5 to 558.5, Madison, IN.

(a) *Location.* All waters of the Ohio River beginning at mile marker 557.5 and ending at mile marker 558.5 in Madison, IN.

(b) *Period of enforcement.* This rule will be enforceable from 8:00 a.m. to 6:00 p.m. on September 17 and September 18, 2016.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.35, entry into this area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels desiring entry into or passage through the area must request permission from the Captain of the Port Ohio Valley or a designated representative. U.S. Coast Guard Sector

Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

Dated: September 12, 2016.

**M.B. Zamperini,**

*Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2016-0674]

#### **Drawbridge Operation Regulation; South Branch of the Elizabeth River, Atlantic Intracoastal Waterway, Chesapeake, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Gilmerton (US13/460) Bridge across the South Branch of the Elizabeth River, mile 5.8, on the Atlantic Intracoastal Waterway, at Chesapeake, VA. This deviation is necessary to avoid bridge failure and perform emergency bridge repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This deviation is effective without actual notice from September 16, 2016 through 5 a.m. on September 19, 2016. For the purposes of enforcement, actual notice will be used from September 13, 2016 at 9 a.m., until September 16, 2016.

**ADDRESSES:** The docket for this deviation, [USCG-2016-0674] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard, telephone 757-398-6222, email [Hal.R.Pitts@uscg.mil](mailto:Hal.R.Pitts@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The City of Chesapeake, that owns and operates the Gilmerton (US13/460) Bridge, across the South Branch of the Elizabeth River, mile 5.8, on the Atlantic Intracoastal Waterway, at Chesapeake, VA, has requested a temporary deviation from the current operating regulations to avoid bridge failure and perform

emergency repairs to the bridge due to failure of operating mechanism components, requiring non-standard manual operation of the bridge until repair is completed. The bridge is a vertical lift draw bridge and has a vertical clearance in the closed position of 36 feet above mean high water. The vertical clearance of the bridge in the open-to-navigation position of 136 feet above mean high water will be reduced to approximately 110 feet above mean high water from 9 p.m. on September 16, 2016, through 5 a.m. on September 19, 2016.

The current operating schedule is set out in 33 CFR 117.997(c). Under this temporary deviation, the bridge will remain in the closed-to-navigation position, except for scheduled openings at 9 a.m., noon, 3 p.m. and 7 p.m., Monday through Friday; and 9 a.m. and 3 p.m. on Saturday and Sunday. The scheduled openings at 9 a.m. and 3 p.m. on Saturday and Sunday, September 17, 2016, and September 18, 2016; and emergency openings from 9 p.m. on September 16, 2016, through 5 a.m. on September 19, 2016, will provide a reduced vertical clearance of approximately 110 feet above mean high water.

The South Branch of the Elizabeth River is used by a variety of vessels including U.S. government and public vessels, commercial vessels, tug and barge traffic, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to safely pass through the bridge in the closed position may do so at any time. On Saturday and Sunday, September 17, 2016, and September 18, 2016, vessels able to safely pass through the bridge in the closed position should contact the bridge tender to ensure safe passage through the bridge. There is no immediate alternate route for vessels unable to pass through the bridge in the closed position. The bridge will open on signal for emergency vessels, if at least one hour notice is given. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

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

Dated: September 13, 2016.

**Hal R. Pitts,**

*Bridge Program Manager, Fifth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2016-0866]

#### **Drawbridge Operation Regulation; James River, Isle of Wight and Newport News, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the James River Bridge (US17) across the James River, mile 5.0, at Isle of Wight and Newport News, VA. The deviation is necessary to perform bridge maintenance and repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This deviation is effective from 5 a.m. on September 19, 2016, to 7 p.m. on October 16, 2016.

**ADDRESSES:** The docket for this deviation, [USCG-2016-0866] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard, telephone 757-398-6222, email [Hal.R.Pitts@uscg.mil](mailto:Hal.R.Pitts@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Virginia Department of Transportation, that owns and operates the James River Bridge (US17), across the James River, mile 5.0, at Isle of Wight and Newport News, VA, has requested a temporary deviation from the current operating regulations to perform repairs to the aerial electrical cable connecting the north tower to the south tower. The bridge is a vertical lift draw bridge and has a vertical clearance in the closed position of 60 feet above mean high water.

The current operating schedule is open on signal as set out in 33 CFR 117.5. Under this temporary deviation, the bridge will remain in the closed-to-