

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117****[CGD01-03-031]****Drawbridge Operation Regulations: Mianus River, CT****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 drawbridge operation regulations for the Metro North Bridge, mile 1.0, across the Mianus River in Cos Cob, Connecticut. Under this temporary deviation a three-hour advance notice for bridge openings will be required from April 25, 2003 through May 26, 2003. This temporary deviation is necessary to facilitate structural repairs at the bridge.

**DATES:** This deviation is effective from April 25, 2003 through May 26, 2003.

**FOR FURTHER INFORMATION CONTACT:** Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668-7195.

**SUPPLEMENTARY INFORMATION:** The Metro North Bridge has a vertical clearance in the closed position of 20 feet at mean high water and 27 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.209.

The bridge owner, Metro North Commuter Railroad, requested a temporary deviation from the drawbridge operation regulations to facilitate necessary maintenance, the replacement of damaged miter rails and timbers, at the bridge. The bridge must remain in the closed position to perform these repairs.

The Coast Guard coordinated this closure with the mariners who normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system.

Under this temporary deviation for the Metro North Bridge, a three-hour advance notice will be required for bridge openings from April 25, 2003 through May 26, 2003.

The bridge owner did not provide the required thirty-day notice to the Coast Guard for this deviation; however, this deviation was approved because the repairs are necessary repairs that must be performed without delay in order to assure the continued safe reliable operation of the bridge.

This deviation from the operating regulations is authorized under 33 CFR

117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: April 21, 2003.

**John L. Grenier,**

*Captain, Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 03-10831 Filed 5-1-03; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[CGD13-03-012]****RIN 1625-AA00****Security and Safety Zone: Protection of Large Passenger Vessels, Portland, OR****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule; request for comments.

**SUMMARY:** Increases in the Coast Guard's maritime security posture necessitate establishing temporary regulations for the safety and security of large passenger vessels in the navigable waters of the Portland, OR Captain of the Port zone. This security zone will provide for the regulation of vessel traffic in the vicinity of large passenger vessels.

**DATES:** This regulation is effective March 12, 2003, until September 12, 2003. Comments and related material must reach the Coast Guard on or before June 2, 2003.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office/Group Portland, 6767 North Basin Ave, Portland, OR, 97217. Marine Safety Office Portland maintains the public docket [CGD13-03-012] for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Portland between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Tad Drozdowski, c/o Captain of the Port Portland, 6767 North Basin Ave, Portland, OR, (503) 240-2584.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD13-03-012], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary final rule in view of them.

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to safeguard large passenger vessels from sabotage, other subversive acts, or accidents. If normal notice and comment procedures were followed, this rule would not become effective soon enough to provide immediate protection to large passenger vessels from the threats posed by hostile entities and would compromise the vital national interest in protecting maritime transportation and commerce. The security and safety zone in this regulation has been carefully designed to minimally impact the public while providing a reasonable level of protection for large passenger vessels. For these reasons, following normal rulemaking procedures in this case would be impracticable, unnecessary, and contrary to the public interest.

**Background and Purpose**

Recent events highlight the fact that there are hostile entities operating with the intent to harm U.S. National Security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks)), 67 FR 59447 (Sept. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Act of June 15, 1917, as amended August 9, 1950, by the Magnuson Act (50 U.S.C. 191 *et. seq.*),

that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215 (Sept. 3, 2002) (security endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations)).

The Coast Guard, through this action, intends to assist large passenger vessels by establishing a security and safety zone to exclude persons and vessels from the immediate vicinity of all large passenger vessels. Entry into this zone will be prohibited unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other federal, state, or local agencies.

#### Discussion of Rule

This rule, for safety and security concerns, controls vessel movement in a regulated area surrounding large passenger vessels. For the purpose of this regulation, a large passenger vessel means any vessel over 100 feet in length (33 meters) carrying passengers for hire including, but not limited to, cruise ships, auto ferries, passenger ferries, and excursion vessels. All vessels within 500 yards of large passenger vessels shall operate at the minimum speed necessary to maintain a safe course, and shall proceed as directed by the official patrol. No vessel, except a public vessel (defined below), is allowed within 100 yards of a large passenger vessel, unless authorized by the on-scene official patrol or large passenger vessel master. Vessels requesting to pass within 100 yards of a large passenger vessel shall contact the on-scene official patrol or large passenger vessel master on VHF-FM channel 16 or 13. The on-scene official patrol or large passenger vessel master may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a large passenger vessel in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of passing large passenger vessels. Public vessels for the purpose of this Temporary Final Rule are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that

Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the on-scene official patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the large passenger vessel security and safety zone for any given transiting large passenger vessel will effect a given geographical location for a limited time; and (iv) 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" includes 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of large passenger vessels in the navigable waters of the United States to which this rule applies.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the on-scene official patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the passenger vessel security and safety zone for any given transiting large passenger vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

#### Assistance for Small Entities

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 one of the points of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of the Temporary Final Rule to accommodate the special needs of mariners in the vicinity of large passenger vessels and the Coast Guard's commitment to working with the Tribes, we have determined that passenger vessel security and fishing rights protection need not be incompatible and therefore have determined that this Temporary Final 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Temporary Final Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

### 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.

### Environment

The Coast Guard's preliminary review indicates this temporary rule is categorically excluded from further environmental documentation under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.ID. As an emergency action, the Environmental Analysis, requisite regulatory consultations, and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary passenger vessel security zone, and will be available in the docket. This temporary rule ensures the safety and security of large passenger vessels. All standard environmental measures remain in effect. The Categorical Exclusion Determination will be made available in the docket for inspection or copying 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 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; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. From March 12, 2003, until September 12, 2003, temporary § 165.T13-006 is added to read as follows:

#### § 165.T13-006 Security and Safety Zone, Large Passenger Vessel Protection, Portland, OR

(a) The following definitions apply to this section:

*Federal Law Enforcement Officer* means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

*Large passenger vessel* means any vessel over 100 feet in length (33 meters) carrying passengers for hire including, but not limited to, cruise ships, auto ferries, passenger ferries, and excursion vessels.

*Large passenger vessel security and safety zone* is a regulated area of water,

established by this section, surrounding large passenger vessels for a 500 yard radius, that is necessary to provide for the security and safety of these vessels.

*Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

*Navigation Rules* means the Navigation Rules, International-Inland.

*Official patrol* means those persons designated by the Captain of the Port to monitor a large passenger vessel security and safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized to enforce this section are designated as the Official Patrol.

*Oregon Law Enforcement Officer* means any Oregon Peace Officer as defined in Oregon Revised Statutes § 161.015.

*Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

*Washington Law Enforcement Officer* means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace Officer as defined in Revised Code of Washington section 10.93.020.

(b) Security and safety zone. There is established a large passenger vessel security and safety zone extending for a 500 yard radius around all large passenger vessels located in the navigable waters of the United States, in Portland, OR beginning at the Columbia River Bar "C" buoy extending eastward on the Columbia River to Kennewick, WA and upriver through Lewiston, ID on the Snake River.

(c) The large passenger vessel security and safety zone established by this section remains in effect at all times, whether the large passenger vessel is underway, anchored, or moored.

(d) The Navigation Rules shall apply at all times within a large passenger vessel security and safety zone.

(e) All vessels within a large passenger vessel security and safety zone shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 100 yards of a large passenger vessel, unless authorized by the on-scene official patrol or large passenger vessel master.

(f) To request authorization to operate within 100 yards of a large passenger vessel, contact the on-scene official patrol or large passenger vessel master on VHF-FM channel 16 or 13.

(g) When conditions permit, the on-scene official patrol or large passenger vessel master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large passenger vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of a passing large passenger vessel; and

(3) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored large passenger vessel with minimal delay consistent with security.

(h) When a large passenger vessel approaches within 100 yards of a vessel that is moored, or anchored in a designated anchorage, the stationary vessel must stay moored or anchored while it remains within the large passenger vessel's security and safety zone unless it is either ordered by, or given permission by the Captain of the Port Portland, his designated representative or the on-scene official patrol to do otherwise.

(i) Exemption. Public vessels as defined in paragraph (a) in this section are exempt from complying with paragraphs (e), (f), (g), (h), (j), and (k) of this section.

(j) Enforcement. Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. When immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effective control in the vicinity of a large passenger vessel, any Federal Law Enforcement Officer, Oregon Law Enforcement Officer or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section.

(k) Waiver. The Captain of the Port Portland may waive any of the requirements of this section for any vessel or class of vessels upon finding that a vessel or class of vessels, operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: March 26, 2003.

**Paul D. Jewell,**

*Captain, Coast Guard, Captain of the Port, Portland.*

[FR Doc. 03–10832 Filed 5–1–03; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD08–03–014]

RIN 1625–AA11

#### Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule; request for comments.

**SUMMARY:** The Coast Guard is establishing a regulated navigation area (RNA) within all inland rivers of the Eighth Coast Guard District. This RNA applies to barges loaded with certain dangerous cargoes (CDCs) operating on inland rivers and requires them to report their position and other information to the Inland River Vessel Movement Center (IRVMC). This action is necessary to ensure public safety, prevent sabotage or terrorist acts, and facilitate the efforts of emergency services and law enforcement officers responding to terrorist attacks.

**DATES:** This rule is effective on April 16, 2003 through October 31, 2003.

**ADDRESSES:** You may mail comments and related material to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130. Commander, Eighth Coast Guard District (m) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD08–03–014 and are available for inspection or copying at Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander (CDR) Jerry Torok or Lieutenant (LT) Karrie Trebbe, Project Managers for the Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, telephone (504) 589–6271.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b), the

Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Maritime Administration (MARAD) recently issued MARAD Advisory 03–03 (182100Z MAR 03) informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attacks to the transportation community in the United States. Further, national security and intelligence officials warn that future terrorist attacks against United States interests are likely. The measures contemplated by the rule are intended to prevent waterborne acts of sabotage or terrorism, which terrorists have demonstrated a capability to carry out. Any delay in making this regulation effective would be contrary to the public interest because immediate action is necessary to protect U.S. maritime transportation interests against the possible loss of life, injury, or damage to property.

#### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. We encourage comments on whether a Regulated Navigation Area is the appropriate tool for a long-term solution to the security risk at issue. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08–03–014], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

Terrorist attacks on September 11, 2001 inflicted catastrophic human