

necessary to facilitate the Chelsea River Revel and 5K Road Race. This deviation allows the bridge to remain in the closed position during the running of the 5K Road Race and for the remainder of the Chelsea River Revel. Vessels that can pass under the draw without a bridge opening may do so at all times.

DATES: This deviation is effective from 8 a.m. through 5 p.m. on June 13, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0150 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: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The owner of the bridge, the City of Boston, requested this temporary deviation. The P.J. McArdle Bridge, across the Chelsea River at mile 0.3, between Chelsea and East Boston, Massachusetts, has a vertical clearance in the closed position of 21 feet at mean high water and 30 feet at mean low water. The bridge opens on signal as required by 33 CFR 117.593.

This deviation which allows the bridge to remain closed is effective from 8 a.m. through 5 p.m. on June 13, 2009. Vessels able to pass under the closed draw may do so at any time. Tankers, and tug and barge units transit Chelsea Creek under the McArdle Bridge. Waterway users were advised of the requested bridge closure period and offered no objection.

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: March 17, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E9–7257 Filed 3–31–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0104]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Jay Jay, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the NASA Railroad bridge across the Atlantic Intracoastal Waterway, mile 876.6, at Jay Jay, FL. The deviation is necessary to perform rehabilitation work on the bridge. This deviation allows the bridge to not open to vessel traffic from 7 a.m. until 11 a.m. and from 1 p.m. until 5 p.m., Monday through Friday except federal holidays until June 30, 2009; all other times the bridge will continue to operate in accordance with 33 CFR 117.261(j).

DATES: This deviation is effective from March 11, 2009, until June 30, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0104 and are available online at 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 (dpb), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, Florida 33131–3028 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Barry Dragon, Bridge Branch, Seventh Coast Guard District, at 305–415–6743. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: This deviation was requested by NASA, the bridge owner, in order to complete rehabilitation of the NASA Bridge, mile 876.6, of the Atlantic Intracoastal Waterway, Jay Jay, FL. The bridge has a vertical clearance of 7 feet in the closed

position and a horizontal clearance of 90 feet. The work will require four hours of continuous closure followed by two hours for vessel passage followed by four hours of continuous closure, Monday through Friday except Federal holidays. The normal operating schedule for the bridge is in 33 CFR 117.261(j). The draw is normally in the fully open position and lowers upon command by operator of approaching train. This deviation is effective until June 30, 2009.

In accordance with 33 CFR 117.35(e), the drawbridge 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: March 11, 2009.

R.S. Branham,

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

[FR Doc. E9–7258 Filed 3–31–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0411]

RIN 1625–AA00

Safety Zone; Captain of the Port Zone Jacksonville; Offshore Cape Canaveral, FL

AGENCY: Coast Guard, DHS.

ACTION: Final Rule.

SUMMARY: The Coast Guard is establishing four safety zones to protect infrastructure and marine traffic from the hazards associated with recurring space vehicle launches from Cape Canaveral Air Force Station (CCAFS). The safety zones extend from the shoreline to points approximately 12 nautical miles offshore and will only be activated and enforced during pre-launch hours and terminate approximately 15 minutes after a successful launch. In addition to protecting marine traffic from the hazards associated with the launching of space vehicles, the regulation will expedite notification to the public of such launches and also reduce the administrative workload of the Coast Guard.

DATES: This rule is effective May 1, 2009.

ADDRESSES: Comments and material received from the public, as well as

documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0411 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–2008–0411 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Coast Guard Sector Jacksonville Prevention Department, 4200 Ocean Street, Atlantic Beach, Florida 32233, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LCDR Mark Gibbs at Coast Guard Sector Jacksonville Prevention Department (904) 564–7563. If you have questions on viewing docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 18, 2008, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Captain of the Port Zone Jacksonville; Offshore Cape Canaveral, FL in the *Federal Register* (73 FR 160). We received 0 letters commenting on the rule. No public meeting was requested, and none was held.

Background and Purpose

Space vehicle launches from CCAFS occur throughout the year and have a decided impact on the waters offshore Cape Canaveral. These waters are located within the boundaries of Seventh Coast Guard District, Captain of the Port (COTP) Zone Jacksonville, as defined by CFR 3.35–20. Currently, CCAFS launches 12 to 15 vehicles per year. For each launch, the Coast Guard activates and enforces the security zone in 33 CFR 165.701. The offshore portion of that security zone extends three miles from the baseline. However, to ensure the safety of all maritime interests, CCAFS has requested an additional safety buffer be added to an extent reaching 12 nautical miles offshore, the maximum distance from baseline for which the COTP has jurisdictional authority to establish safety zones. Presently, for each space vehicle launch,

CCAFS requests, and the Coast Guard creates, a Temporary Final Rule establishing a safety zone from the baseline out to 12 nautical miles. This temporary safety zone covers an area of the Atlantic Ocean that commences at the shoreline and extends 3 miles either side of the launch azimuth bearing out to 12 nautical miles. Administrative efficiency and can be achieved while improving public notice through the promulgation of a final rule and subsequent enforcement notice rather than through promulgation of individual temporary final rules for each launch. In 2007, the Coast Guard issued 12 temporary regulations. In addition to the administrative burden, the repeated temporary rules have caused confusion among maritime interests who must adjust plans and operations to each new and different temporary zone. This problem will worsen in the near future as CCAFS pursues more robust launch schedules.

Furthermore, the unpredictability of weather causes a significant proportion of launches to be delayed. Any delay precludes suitable notification to the public on the effective date and time safety zones are enacted and enforced. The Coast Guard must therefore create temporary final rules that sometimes are not completed until days or hours before the event. This Final Rule coupled with notice will serve the public interest by ensuring the safety of maritime interests at risk during a launch.

This rule will significantly relieve the administrative burden on the Coast Guard, and at the same time allow the Coast Guard to notify the public of launch area restrictions in a timely manner. The public notification of launch date and time along with a description of the regulated zone will be furnished via Broadcast Notice to Mariners, Public Notices, and on-scene Patrol Commanders. In addition, the closing of the area will be signified by the display of a yellow ball from a 90-foot pole near the shoreline at approximately 28°35′00″ N, 080°34′36″ W, and from a 90-foot pole near the shoreline at approximately 28°25′18″ N, 080°35′00″ W.

Discussion of Comments and Changes

On August 18, 2008 the Coast Guard published a notice of proposed rulemaking (NPRM) that proposed establishment of four safety zones to protect infrastructure and marine traffic from the hazards associated with recurring space vehicle launches from Cape Canaveral Air Force Station. No comments were received in response to the NPRM, however the COTP has

incorporated the following changes to notify the public the safety zone has been activated.

The closing of the area will be signified by the display of a yellow ball from a 90-foot pole near the shoreline at approximately 28°35′00″ N, 080°34′36″ W, and from a 90-foot pole near the shoreline at approximately 28°25′18″ N, 080°35′00″ W.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Safety zones will be enacted 45 minutes prior to launch time and only extend 15 minutes beyond a successful launch. During this time, no vessel will be permitted to transit through the safety zone(s).

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 would not have a significant economic impact on a substantial number of small entities. Total time of safety zone activation and thus restriction to the public is expected to be one hour per launch. We do not anticipate any significant economic impact resulting from activation of the safety zone(s).

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so

that they could better evaluate its effects on them and participate in the rulemaking process.

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 would 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 would 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 discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 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 section 165.775 to read as follows:

§ 165.775 Safety Zone; Captain of the Port Zone Jacksonville; Offshore Cape Canaveral, Florida.

(a) *Regulated Area.* (1) Zone (A) is defined by four latitude and longitude corner points. Zone A originates from the baseline at position 28°45.7′ N, 080°42.7′ W; then proceeds northeast to 28°50.1′ N, 080°29.9′ W; then proceeds southeast to 28°31.3′ N, 080°19.6′ W; then proceeds west back to the baseline at position 28°31.3′ N, 080°33.4′ W.

(2) Zone (B) is defined by four latitude and longitude corner points. Zone B originates from the baseline at position 28°40.1′ N, 080°38.4′ W; then proceeds northeast to 28°48.8′ N, 080°28.9′ W; then proceeds southeast to 28°29.7′ N, 080°18.9′ W; then proceeds west back to the baseline at position 28°29.7′ N, 080°31.6′ W.

(3) Zone (C) is defined by four latitude and longitude corner points. Zone C originates from the baseline at position 28°36.2′ N, 080°35.3′ W; then proceeds northeast to 28°45.6′ N, 080°25.2′ W; then proceeds south to 28°26′ N, 080°20.8′ W; then proceeds west back to the baseline at position 28°26′ N, 080°34.4′ W.

(4) Zone (D) is defined by four latitude and longitude corner points. Zone D originates from the baseline at position 28°31.6′ N, 080°34′ W; then proceeds east to 28°31.6′ N, 080°20.1′ W; then proceeds south to 28°16.7′ N, 080°23.3′ W; then proceeds northwest back to the baseline at position 28°21.6′ N, 080°36.1′ W.

(b) *Definitions.* The following definitions apply to this section:

Designated representative means Coast Guard Patrol Commanders

including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Jacksonville in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville or his designated representative.

(d) *Notice of a Safety Zone.* The proposed safety zones are temporary in nature and will only be enacted and enforced prior to, and just after a successful launch. The COTP will inform the public of the existence or status of the safety zone(s) by Broadcast Notice to Mariners on VHF-FM channel 16, Public Notice, on-scene presence, and by the display of a yellow ball from a 90-foot pole near the shoreline at approximately 28°35'00" N, 080°34'36" W, and from a 90-foot pole near the shoreline at approximately 28°25'18" N, 080°35'00" W. Coast Guard assets or other Federal, State, or local law enforcement assets will be clearly identified by lights, markings, or with agency insignia.

(e) *Contact Information.* The COTP Jacksonville may be reached by telephone at (904) 564-7513. Any on-scene Coast Guard or designated representative assets may be reached on VHF-FM channel 16.

Dated: November 26, 2008.

Paul F. Thomas,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

Editorial Note: This document was received in the Office of the Federal Register on Friday, March 27, 2009.

[FR Doc. E9-7259 Filed 3-31-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-1272]

RIN 1625-AA00

Safety Zone; Underwater Object, Massachusetts Bay, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is extending the duration of a temporary safety zone

surrounding the fishing vessel PATRIOT located approximately 17 miles northeast of Scituate, Massachusetts in Massachusetts Bay. This action is necessary to ensure that vessels are not endangered by conducting dredging, diving, salvage, anchoring, fishing or other activities in this area. This temporary rulemaking is needed to protect the environment, the commercial fishing industry, and the general public from potential hazards associated with the underwater object.

DATES: This rule is effective from 11:59 p.m. March 14, 2009 through 11 p.m. April 28, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-1272 and will be available online at www.regulations.gov. They will also be available for inspection or copying in 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 United States Coast Guard Sector Boston, 427 Commercial St, Boston, MA 02109 between 7 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 Chief Eldridge McFadden, Waterways Management Division, at 617-223-3000. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. 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 initial immediate action was needed to protect the public from the hazards posed by an unknown underwater object located in Massachusetts Bay. This object was later identified as the F/V Patriot. The F/V PATRIOT is located in approximately 95 feet of water 17 miles northeast of Scituate, Massachusetts. This rule extends the duration of the existing safety zone, which would have expired on March 14, 2009, to ensure, to the extent practicable, the immediate, continued protections for the environment, the commercial fishing industry, and the general public from the hazards associated with the F/V

PATRIOT, while investigative efforts continue, risk mitigation strategies are further explored and implemented, and salvage efforts are conducted.

For the 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**.

Background and Purpose

On January 3, 2009, the F/V PATRIOT, a 54-foot steel-hull boat, sank with the loss of two crewmembers onboard. The vessel was reported to have an estimated 5000 gallons of fuel onboard. There were no survivors and the exact position of the vessel was not immediately known. On January 8, 2009, the Coast Guard established a temporary safety zone around a reported underwater object believed to be the F/V PATRIOT, located in Massachusetts Bay approximately 17 miles northeast of Scituate, Massachusetts, in position 42°24'27.34" N, 70°27'17.23" W.

This underwater object created an immediate and significant danger to the environment, the commercial fishing industry, and the general maritime public, as mariners unaware of its presence could make contact with the object and cause damage to their vessel, equipment below the water or fishing gear. On January 14, 2009, the Coast Guard extended the temporary safety zone until March 14, 2009, while investigative efforts continued and risk mitigation strategies were further explored. On January 23, 2009, underwater exploratory operations with photographic equipment confirmed that the object was the F/V PATRIOT. The owners of the vessel intend to conduct dive and salvage operations on the vessel. The extension of this zone will help ensure the planned dive and salvage operations can be conducted safely.

Discussion of Rule

This regulation extends the duration of the temporary safety zone on the navigable waters of Massachusetts Bay, Massachusetts, 17 miles northeast of Scituate, Massachusetts. This extension is necessary to allow the owners of the F/V PATRIOT to conduct salvage operations. The first safety zone, on this matter, was effective from January 8, through January 14, 2009. On January 14, 2009, the duration of the zone was extended until March 14, 2009 (74 FR 7817). With this rule, we are extending the duration of the safety zone from March 14, 2009 through April 28, 2009. The zone extends for 500 yards, in all directions, from the F/V PATRIOT in approximate position 42°24'27.34" N,