

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 determined it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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)(h), of the Instruction, from further environmental documentation. Paragraph (34)(h) states that special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation.

Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

### List of Subjects in 33 CFR Part 100

Harbors, 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 100.35T–08–803 is added to read as follows:

### § 100.35T–08–803 Ohio River, Miles 467.0 to 475.0 and Licking River, Miles 0.0 to 0.5; Cincinnati, OH.

#### (a) Definitions.

*Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Captain of the Port Louisville.

*Participant* means all vessels participating in the "2003 Tall Stacks Heritage Festival" under the auspices of the Marine Event Permit issued to the event sponsor and approved by the Captain of the Port Louisville.

*Regulated area* means the waters of the Ohio River beginning at mile marker 467.0 and ending at mile marker 475.0, and the waters of the Licking River beginning at mile marker 0.0 and ending at mile marker 0.5.

(b) *Special local regulations.* (1) All vessels entering into the regulated area are only authorized to do so at a no wake speed.

(2) Commercial towing vessels shall transit through the regulated area at the slowest safe speed to maintain steerageway and minimize wake.

(3) All vessels within the area shall not anchor, loiter, impede participant vessels or pass within 20 feet of a moored participant vessel.

(4) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Coast Guard Patrol Commander.

(ii) Proceed as directed by any Coast Guard Patrol Commander.

(c) *Effective date.* This section is effective from 8 a.m. on October 14, 2003 until 1 p.m. on October 20, 2003.

Dated: September 18, 2003.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 03–25413 Filed 10–7–03; 8:45 am]

BILLING CODE 4910–15–P

### DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 110 and 165

[CGD05–03–099]

RIN 1625–AA00 and 1625–AA01

### Anchorage Grounds and Safety Zone; Delaware Bay and River

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on

the Delaware Bay and River around the Weeks Dredge and Barge #312 and placing additional requirements on vessels in Anchorage 6 off Deepwater Point, Anchorage 7 off Marcus Hook, and Anchorage 9 near the entrance to Mantua Creek. The Army Corps of Engineers dredges parts of the Delaware River including the Marcus Hook Range Ship Channel to maintain congressionally authorized depths. These regulations will help ensure the safety of vessels transiting the channel as well as vessels engaged in dredging operations.

**DATES:** This rule is effective from September 29, 2003, to December 31, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–03–099 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania, 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

### FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Kevin Sligh or Lieutenant Junior Grade Toussaint Alston, Coast Guard Marine Safety Office Philadelphia, at (215) 271–4889.

### 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) and (d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Allowing for a comment period is impracticable and contrary to public interest, since immediate action is needed to protect mariners against potential hazards associated with dredging operations in the Marcus Hook Range Ship Channel and to modify the anchorage regulations to facilitate vessel traffic. However, advance notification will be made to affected mariners via marine information broadcasts.

### Background and Purpose

The U.S. Army Corps of Engineers (USACE) conducts dredging operations on the Delaware River in the vicinity of the Marcus Hook Range Ship Channel to maintain the forty-foot project depth.

To reduce the hazards associated with dredging the channel, vessel traffic that would normally transit through the Marcus Hook Range Ship Channel will be diverted through part of Anchorage 7 off Marcus Hook ("Anchorage 7")

during the dredging operations. Therefore, additional requirements and restrictions on the use of Anchorage 7 are necessary. For the protection of mariners transiting in the vicinity of dredging operations, the Coast Guard is also establishing a safety zone around the dredging vessels, Weeks Dredge and Barge #312. The safety zone is intended to protect mariners from the potential hazards associated with dredging operations and equipment.

#### Discussion of Temporary Final Rule

Currently in paragraph (b)(2) of 33 CFR 110.157 we allow vessels to anchor for up to 48 hours in the anchorage grounds listed in § 110.157(a), which includes Anchorage 7. However, because of the temporary re-routing of vessel traffic through Anchorage 7, the Coast Guard is adding a paragraph (b)(11) in 33 CFR 110.157 to provide additional requirements and restrictions on vessels using Anchorage 7. During the effective period, vessels desiring to use Anchorage 7 must obtain permission from the Captain of the Port Philadelphia at least 24 hours in advance. The Captain of the Port will permit only one vessel at a time to anchor in Anchorage 7 and will grant permission on a "first come, first served" basis. A vessel will be directed to a location within Anchorage 7 where it may anchor, and will not be permitted to remain in Anchorage 7 for more than 12 hours.

Any vessel that is arriving from or departing for sea requiring an examination by the public health service, customs or immigration authorities will be directed to an anchorage for the required inspection by the Captain of the Port on a case by case basis.

When Anchorage 7 is occupied, the Coast Guard expects that vessels normally permitted to anchor in Anchorage 7 will use Anchorage 6 off Deepwater Point ("Anchorage 6") or Anchorage 9 near the entrance to Mantua Creek ("Anchorage 9"), because they are the closest anchorage grounds to Anchorage 7. To control access to Anchorage 7, the Coast Guard is requiring a vessel desiring to anchor in Anchorage 7 obtain advance permission from the Captain of the Port. The Captain of the Port may be contacted by telephone at (215) 271-4807 or via VHF marine band radio, channels 13 and 16. To control access to Anchorages 6 and 9, the Coast Guard is requiring any vessel 700 feet or greater in length to obtain advance permission from the Captain of the Port before anchoring. The Coast Guard is also concerned that the holding ground in Anchorages 6 and

9 is not as solid as it is in Anchorage 7. Therefore, a vessel 700 to 750 feet in length is required to have one tug standing alongside while at anchor and a vessel over 750 feet in length must have two tugs standing alongside. The tug must be of sufficient size and horsepower to prevent an anchored vessel from swinging into the channel.

The Coast Guard is also establishing a safety zone within a 150-yard radius of the dredging operations being conducted in the Marcus Hook Range Ship Channel in the vicinity of Anchorage 7, by the Weeks Dredge Barge #312. The safety zone is intended to protect mariners transiting the area from the potential hazards associated with dredging operations. Vessels transiting the Marcus Hook Range Ship Channel will have to divert from the main ship channel through Anchorage 7 and must operate at the minimum safe speed necessary to maintain steerage and reduce wake. No vessel may enter the safety zone unless permission is received from the Captain of the Port.

#### Regulatory Evaluation

This temporary 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 rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation requires certain vessels to have one or two tugs alongside while at anchor, the requirement only applies to vessels 700 feet or greater in length that choose to anchor in Anchorages 6 and 9. Alternate anchorage grounds such as Anchorage A (Breakwater) and Anchorage 1 (Big Stone) in Delaware Bay, are reasonably close and generally available. Vessels anchoring in Anchorages A and 1 are not required to have tugs alongside, except when specifically directed to do so by the Captain of the Port because of a specific hazardous condition. Furthermore, few vessels 700 feet or greater are expected to enter the port during the effective period. The majority of vessels expected to anchor are less than 700 feet and thus will not be required to have tugs alongside.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 people.

This rule's greatest impact is on vessels greater than 700 feet in length, which choose to anchor in Anchorages 6 and 9. This rule will have virtually no impact on any small entities. Therefore, the Coast Guard certifies under section 605(b) of the regulatory Flexibility Act (5 U.S.C. 605(b)) that this will not have a significant impact on a substantial number of small entities.

#### 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 rule so that they can better evaluate its effects on them and participate in the rulemaking.

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 Guards, call 1-888-REG-FAIR (1-888-743-3247).

#### Collection of Information

This rule would call 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 this rule 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule would 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 concern 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 would 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(f) and (g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

### List of Subjects

#### 33 CFR Part 110

Anchorage grounds.

#### 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 parts 110 and 165 as follows:

### PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1(g); Department of Homeland Security Delegation No. 0170.1.

■ 2. From September 29, 2003 to December 31, 2003, in § 110.157 add a new paragraph (b)(11) to read as follows:

#### § 110.157 Delaware Bay and River.

\* \* \* \* \*

(b) \* \* \*

(11) From September 29, 2003 until December 31, 2003, additional requirements and restrictions in this paragraph for the use of anchorages defined in paragraphs (a)(7), (a)(8), and (a)(10) of this section apply.

(i) Before anchoring in Anchorage 7 off Marcus Hook, as described in paragraph (a)(8) of this section, a vessel must first obtain permission from the Captain of the Port, Philadelphia, at least 24 hours in advance of arrival. Permission to anchor will be granted on a "first-come, first-served" basis. The Captain of the Port will allow only one vessel at a time to be at anchor in Anchorage 7, and no vessel may remain within Anchorage 7 for more than 12 hours. Any vessel that is arriving from or departing for sea and that requires an examination by the public health service, customs or immigration authorities will be directed to an anchorage for the required inspection by the Captain of the Port on a case by case basis.

(ii) For Anchorage 6 off Deepwater Point, as described in paragraph (a)(7) of this section, and Anchorage 9 near entrance to Mantua Creek, as described in paragraph (a)(10) of this section—

(A) Any vessel 700 feet or greater in length requesting anchorage must obtain permission from the Captain of the Port, Philadelphia, Pennsylvania, at least 24 hours in advance.

(B) Any vessel from 700 to 750 feet in length shall have one tug alongside at all times while the vessel is at anchor.

(C) Any vessel greater than 750 feet in length must have two tugs alongside at all times while the vessel is at anchor.

(D) The Master, owner or operator of a vessel at anchor must ensure that any tug required by this section is of sufficient size and horsepower to assist with necessary maneuvers to keep an anchored vessel clear of the navigation channel.

(iii) As used in this section, *Captain of the Port* means the Captain of the Port, Philadelphia, Pennsylvania or any Coast Guard commissioned, warrant, or petty officer authorized to act on his behalf. The Captain of the Port may be contacted by telephone at (215) 271-4807 or via VHF marine band radio, channels 13 and 16.

\* \* \* \* \*

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05-1(G), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 4. From September 29, 2003, to December 31, 2003, add temporary § 165.T05-099 to read as follows:

#### § 165.T05-099 Safety Zone; Delaware Bay and River.

(a) *Definition.* As used in this section, *Captain of the Port* means the Captain of the Port, Philadelphia, Pennsylvania or any Coast Guard commissioned, warrant, or petty officer authorized to act on his behalf. The Captain of the Port may be contacted by telephone at (215) 271-4807 or via VHF marine band radio, channels 13 and 16.

(b) *Location.* The following area is a safety zone: All waters located within a 150-yard radius arc centered around the Weeks Dredge and Barge #312 conducting dredging operations in or near the Marcus Hook Range Ship Channel in the vicinity of Anchorage 7.

(c) *Regulations.* (1) All persons are required to comply with the general

regulations governing safety zones in 33 CFR 165.23 of this part.

(2) All Coast Guard vessels enforcing this safety zone or watch officers aboard the Weeks Dredge and Barge #312 can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271-4807.

(3) The Captain of the Port will notify the public of any changes in the status of this safety zone by Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22 (157.1 MHz).

(d) *Effective period.* This section is effective from September 29, 2003 until December 31, 2003.

Dated: September 25, 2003.

**Sally Brice-O'Hara,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 03-25416 Filed 10-7-03; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD11-03-001]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Cerritos Channel, Long Beach, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary rule.

**SUMMARY:** The Commander, Eleventh Coast Guard District, is temporarily changing the regulation governing the Heim Drawbridge, mile 4.9 Cerritos Channel, Long Beach, CA, so the drawbridge need not open for vessel traffic on weekends and evenings during October and November, 2003. California Department of Transportation ("Caltrans") requested this temporary change to perform essential deck repairs on the drawbridge.

**DATES:** This temporary rule is effective from 7 p.m. on October 2, 2003, to 6 a.m. on November 21, 2003.

**ADDRESSES:** Documents referred to in this rule are available for inspection and copying at Commander (oan), Eleventh Coast Guard District, Building 50-3, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

**SUPPLEMENTARY INFORMATION:**

#### Good Cause for Not Publishing an NPRM

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 an NPRM. This rule is being promulgated without an NPRM due to the short time frame between the submission of the request and the start date of the scheduled repairs.

#### Good Cause for Making Rule Effective in Less Than 30 Days

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**. The Coast Guard received the request for the temporary change less than 30 days prior to the scheduled repairs. Delaying the effective date of this rule would be contrary to the public interest because the deck of the bridge is in need of repairs and the repairs require the bridge to be in the closed-to-navigation position for extended periods of time. This event has been thoroughly coordinated with waterway users and no objections have been received. There is an alternative path for navigation around Terminal Island and the repair work will occur during evening hours when there is less waterway activity.

#### Background and Purpose

Caltrans has requested a temporary change to the operation of the Heim Drawbridge, mile 4.9 Cerritos Channel in Long Beach, CA. The Heim Drawbridge navigation span provides vertical clearance of 37 feet above Mean High Water in the closed-to-navigation position. The waterway is navigated by commercial, recreational, and emergency response watercraft. Presently, 33 CFR 117.147 requires the draw to open on signal for the passage of vessels, except during established workday rush hours. In order to repair the deck of the bridge, Caltrans requested the drawbridge temporarily be allowed to remain closed to navigation on the weekends from 7 p.m. Friday until 6 a.m. Monday, and for the bridge to remain closed during the work week each night from 7 p.m. until 6 a.m., Monday through Friday. This temporary rule is effective from 7 p.m. on October 2, 2003, to 6 a.m. on November 21, 2003. During this time Caltrans will perform essential deck repairs on the drawspan. This temporary drawbridge operation amendment has been coordinated with the waterway users. No objections to the proposed temporary rule were raised.

#### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because waterway traffic has an alternative route and is not likely to be delayed more than one hour.

#### 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 as none will be affected by the temporary rule.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), 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. None were identified as being present on the waterway during the temporary rule.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act (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