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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2010-0089]

Drawbridge Operation Regulation; Inner Harbor Navigational Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 46 (Judge Seeber/Claiborne Avenue) Vertical Lift Bridge across the Inner Harbor Navigational Canal, mile 0.9, (GIWW mile 6.7 EHL), at New Orleans, LA. The deviation is necessary to replace the counterweight wire ropes on the bridge. This deviation allows the bridge to remain closed for two (2) 120-hour time periods within a three week period.

DATES: This deviation is effective from 6 a.m. on Monday, March 15, 2010 until 6 a.m. on Monday, April 5, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG-2010-0089 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-1129 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail David Frank, Bridge Administration Branch; telephone 504-671-2128, e-mail David.m.frank@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: The Claiborne Avenue bridge has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 156 feet above mean high water in the open-to-navigation position. Currently, according to 33 CFR 117.458(a), the draw of the bridge shall open on signal; except that, from 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:45 p.m. Monday through Friday, the draw need not be open for the passage of vessels. This deviation allows the draw span of the bridge to remain closed to navigation for two (2) 120-hour periods within a three week time frame between March 15, 2010 and April 4, 2010. The exact dates of the closures will be determined at a later date to allow for deep draft vessel movements either just prior or between the closure periods. Exact times and dates of the closures will be published in the Local Notice to Mariners and broadcast via the Coast Guard Broad Notice to Mariners system.

Navigation on the waterway consists mainly of tugs with tows and ships. As a result of coordination between the Coast Guard and the waterway users, it has been determined that this closure has been coordinated to minimize the possibility of any significant effects on these vessels. There are no alternate routes available to vessel traffic; however, vessels that can pass under the bridge in the closed-to-navigation position can do so at any time. The bridge will not be able to open for emergencies.

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: February 10, 2010.

David M. Frank,

Bridge Administrator.

[FR Doc. 2010-3813 Filed 2-24-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-0009]

RIN 1625-AA11

Regulated Navigation Area; Hudson River south of the Troy Locks, New York

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area on the navigable waters of the Hudson River south of the Troy Locks. This regulated navigation area is necessary to promote maritime safety, and protect mariners and the environment from the hazards associated with ice conditions. The regulated navigation area is intended to restrict vessels with less than 3000 horsepower while engaged in towing operations, from operating on the navigable waters of the Hudson River south of the Troy locks when ice conditions are 8 inches or greater unless authorized by the Captain of the Port New York or a designated representative.

DATES: *Effective Date:* this rule is effective in the CFR on February 25, 2010 until March 31, 2010. This rule is effective with actual notice for purposes of enforcement on February 5, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0009 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0009 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant William George, Coast Guard Sector New York, Waterways Management Division; telephone 718-354-4114, e-mail William.J.George@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM)

with respect to this rule because publishing an NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners and to ensure the safety of the environment against potential hazards associated with ice build-up on the navigable waters of the Hudson River.

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**. Immediate implementation of this rule promotes the public interest by ensuring the safety of mariners and protecting the environment against the dangers associated with vessel traffic when there are hazardous ice conditions on the navigable waters of the Hudson River.

Background and Purpose

Historically ice has been an impediment to navigation on the navigable waters of the Hudson River south of the Troy Locks. West Point, Storm King Mountain, Danskammer Point, Crum Elbow, and Esopus Meadows are all natural choke points on the Hudson River where ice buildups have the potential to severely restrict vessel traffic.

There are several situations faced by vessels during severe winter conditions that can place the vessels, passengers, and crew in great danger including being beset in the ice, and ice accretion, where ice forms on the superstructure and decks of transiting vessels. Also, ice may also cause significant damage to propellers, rudders, and hull plating.

Vessels with less than 3000 horsepower, while engaged in towing operations, have significant difficulty transiting the Hudson River in locations where ice thickness is eight inches or greater. This difficulty in transiting the Hudson River during ice buildup poses a safety threat to the environment and a potential hazard to navigation.

When ice thickness is reported to be eight inches or greater on the Hudson River, vessels engaged in towing operations with less than 3000 horsepower usually request break-out assistance from the Coast Guard. A vessel's inability to independently transit the waterway may become a hazard to navigation and the environment.

The formation of ice on the Hudson River contains many variables and is not consistent from year to year. During a moderate or severe winter, the frozen waterways may impede a vessel's ability to maneuver. Once ice build-up begins it can affect the transit of vessels on the navigable waterways. In addition a

vessel's watertight integrity may also be compromised by ice abrasion and ice pressure on the vessel's hull.

Ice floes on the navigable waterways may also cause visual aids to navigation to become submerged, destroyed, or moved off station. Ice conditions on the navigable waterways may create hazardous conditions in which the operations of certain vessels become unsafe.

It becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. This Regulated Navigation Area (RNA) allows the Coast Guard to restrict and manage vessel movement when hazardous ice conditions exist within a specified area of the Hudson River.

The Coast Guard is establishing a regulated navigation area on the navigable waters of the Hudson River south of the Troy Locks. The regulated navigation area is intended to restrict vessels with less than 3000 horsepower while engaged in towing operations when ice conditions are 8 inches or greater, from operating on the Hudson River south of the Troy Locks unless authorized by the Captain of the Port New York or a designated representative.

Discussion of Rule

This rule establishes a regulated navigation area encompassing all navigable waters of the Hudson River south of the Troy Locks. Vessels with less than 3000 horsepower while engaged in towing operations are not authorized to transit the Hudson River south of the Troy Locks when ice thickness is greater than eight inches.

The COTP New York will notify the maritime community, of the location and thickness of the ice as well as any restrictions via marine broadcast.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

The Coast Guard's implementation of this temporary regulated navigational area will only be enforced at the

location on the navigable waters of the Hudson River south of the Troy Locks where ice conditions are 8 inches or greater, and only restrict vessels that are less than 3,000 horsepower while engaged in towing operations.

Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the navigable waters of the Hudson River. Furthermore, vessels affected by this restriction may be authorized to transit the zone with permission of the Captain of the Port New York.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners and operators of tug vessels with less than 3000 horsepower while engaged in towing operations and are intending to transit an area of the Hudson River that has a specified ice condition of eight inches or greater.

This regulated navigation area will not have a significant economic impact on a substantial number of small entities for the following reasons: The ice conditions remain very dynamic for the duration of the winter due to the ebb and flood of the current and varying wind directions. Ice is driven by wind and current and can change location on an hourly basis. This rule will only be enforced in the location where the reported ice thickness is eight inches or greater and for the amount of time the specified ice condition is deemed a threat to safe navigation.

The regulated navigation area will apply to the navigable waters of the Hudson River south of the Troy Locks only during the Ice Season which ends on March 31st. Vessels that are restricted from operating in an affected area due to the thickness of the ice will be allowed to transit despite the restriction with the permission of the COTP New York.

Before any restriction is in place, Coast Guard Sector New York will issue maritime advisories widely available to

users of the navigable waters of the Hudson River.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a regulated navigation area. An environmental analysis checklist and a categorical exclusion determination will be available in the docket.

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; 50 U.S.C. 191, 195; 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

■ 2. Add temporary § 165.T01–0009 to read as follows:

§ 165.T01–009 Regulated Navigation Area, Hudson River south of the Troy Locks, New York.

(a) *Regulated navigation area.* All navigable waters of the Hudson River south of the Troy Locks.

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

(1) Designated representative means any Coast Guard commissioned, warrant, or petty officer, or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port New York.

(c) *Applicability.* This section applies to tugs with less than 3,000 horsepower when engaged in towing operations.

(d) *Regulations.* (1) Except as provided in paragraph (c) (3) of this

section, vessels less than 3,000 horsepower while engaged in towing operations are not authorized to transit that portion of the Hudson River south of the Troy Locks when ice thickness reaches eight inches or greater.

(2) All Coast Guard assets enforcing this regulated navigation area can be contacted on VHF marine band radio, channel 13 or 16. The captain of the Port can be contacted at telephone number (718) 354-4356.

(3) All persons desiring to transit through a portion of the regulated area that has operating restriction in effect must contact the COTP at telephone number (718) 354-4356 or on VHF channel 13 or 16 to seek permission prior to transiting the affected regulated area.

(5) The COTP will notify the public of any changes in the status of this regulated navigation area by Marine Safety Information Broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz).

Dated: February 5, 2010.

Joseph L. Nimmich,
*Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.*

[FR Doc. 2010-3471 Filed 2-24-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0125]

RIN 1625-AA87

Security Zone; Freeport Channel Entrance, Freeport, TX

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has established moving security zones for certain vessels, for which the Captain of the Port, Houston-Galveston deems enhanced security measures necessary on a case-by-case basis. These moving security zones extend 1,000 yards ahead and astern and 500 yards on each side of certain vessels. The moving security zone may commence at any point after certain vessels bound for the Port of Freeport enter the U.S. territorial waters (12 nautical miles) in the Captain of the Port Houston-Galveston zone. These security zones are needed to safeguard the vessels, the public, and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature. Unless

exempted under this rule, entry into or movement within these security zones would be prohibited without permission from the COTP Houston-Galveston.

DATES: This rule is effective March 29, 2010.

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-2008-0125 and are available online by going to <http://www.regulations.gov>, inserting USCG-2008-0125 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Commander Kevin Ivey, Marine Safety Unit Galveston, Coast Guard; telephone 409-978-2704, e-mail Kevin.L.Ivey@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 30, 2009, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Freeport Channel Entrance, Freeport, TX in the **Federal Register** (33 FR 19923). We received two comments on the proposed rule. No parties requested public meetings and none were held.

Background and Purpose

Heightened awareness of potential terrorist acts requires enhanced security of our ports, harbors, and vessels; to enhance security, the Captain of the Port Houston-Galveston has established moving security zones around escorted vessels.

This rule establishes distinct moving security zones that may commence at any point after certain vessels bound for the Port of Freeport enter the 12-nautical-mile U.S. territorial waters in the Captain of the Port Houston-Galveston zone. These zones are established to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Vessels operating within the Captain of the Port Houston-Galveston Zone are potential targets of terrorist attacks, or potential launch platforms for terrorist attacks on

other vessels, waterfront facilities, and adjacent population centers.

Due to the potential for terrorist attacks, this rule would allow the Captain of the Port to create moving security zones around certain vessels as deemed necessary, on a case-by-case basis. By limiting access to these areas, the Coast Guard is reducing potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within these security zones. Vessels having a need to enter these zones must obtain express permission from the Captain of the Port Houston-Galveston or his designated representative prior to entry.

Discussion of Comments and Changes

The Coast Guard received two comments on the proposed rule. One comment was in regard to clarification of whether the security zone pertained to all ships or just LNG ships. The security zone is not established solely for LNG ships. The second comment made was in regard to clarification of whether the security zones pertain to the land as well as the water. The security zone covers only the water, and not the land.

We made no changes to the rule based on these comments. The Coast Guard is implementing the rule as it was proposed in the notice of proposed rulemaking (33 FR 19923).

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The basis of this finding is that the duration of the security zones is limited in nature and would not create undue delay to vessel traffic in and around the Port of Freeport.

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.