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Dated: June 28, 1996.

Fred R. Shank,

*Director, Center for Food Safety and Applied Nutrition.*

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD05-96-043]

**Temporary Deviation; Isle of Wight Bay Drawbridge, Ocean City, MD****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of temporary deviation; request for comments.

**SUMMARY:** At the request of the Maryland Department of Transportation (MDOT), Commander, Fifth Coast Guard District has approved a temporary deviation from the regulations that govern the operation of the Route 50 drawbridge across Isle of Wight Bay, mile 0.5, located in Ocean City, Maryland. This temporary deviation will test the effects of restricted drawbridge openings for all vessels each Saturday between July 13 through August 31, 1996, between the hours of 1 p.m. to 5 p.m. During these times, the bridge need open only on the hour, and must remain in the open position until all waiting vessels pass. All other provisions of the existing regulation for the Route 50 bridge remain the same. This test is intended to help the Coast Guard determine if a permanent change to the regulations would reduce motor vehicle traffic delays and congestion related to summer traffic entering and exiting the town of Ocean City, while still providing for the reasonable needs of navigation.

**EFFECTIVE DATES:** This deviation is effective from July 13 through August 31, 1996. Comments must be received before September 30, 1996.

**ADDRESSES:** Comments should be mailed or delivered to Commander (Aowb), US Coast Guard Atlantic Area, 4th Floor Federal Bldg., 431 Crawford Street, Portsmouth, Virginia 23704-5004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 757-398-6222.

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

The Coast Guard encourages interested persons to comment on this temporary deviation by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice of temporary deviation (CGD05-96-043) and the specific section of this deviation to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period when determining whether to propose a permanent change to the regulation.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander (Aowb) at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid any future proposed rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

**Background and Purpose**

The Maryland Department of Transportation (MDOT) has requested a deviation from the requirements of 33 CFR 117.559 to test the effects of reduced opening periods during which the Route 50 drawbridge opens for marine traffic on Saturday afternoons during the summer months. Section 117.559 requires the Isle of Wight Bay Route 50 bridge to open at 25 minutes and 55 minutes after the hour for a maximum of 5 minutes from 9:25 a.m. to 9:55 p.m. from May 25 through September 15. MDOT's request is based on a large number of vacationers traveling to and from Ocean City on Saturday afternoons during the tourist season (summer months). Vacationers check in and out of hotels on Ocean City Island every Saturday afternoon of the season. This creates a traffic surge of vehicles entering and exiting the island with only two highway bridges (Route 50 and Route 90) available for access. The Route 90 bridge is a fixed-span structure, and the Route 50 bridge is a drawbridge. Over 350 charter boats

historically pass through the Route 50 drawbridge on Saturdays from July 15 through September 15. This produces a dilemma to both waterway users and vehicular traffic trying to access the same drawbridge. MDOT proposes that, by providing only hourly openings on Saturday afternoons as opposed to the current half-hourly openings, vehicular traffic congestion on U.S. 50 will be reduced and highway safety will be increased. This test is intended to provide information needed to determine whether the Coast Guard should propose a permanent change to the regulation to better balance the needs of both waterway users and vehicular traffic.

Based on the above information, Commander, Fifth Coast Guard District has approved a temporary deviation from the requirements of 33 CFR 117.559 from July 13, 1996 through August 31, 1996. This temporary deviation will require the drawbridge to open only on the hour from 1 p.m. to 5 p.m. for waiting vessels on each Saturday from July 13 through August 31, 1996. When the bridge is opened, it will remain in the open position until all waiting vessels pass. The provisions of 33 CFR 117.31 which provide for the passage on signal for Federal, State and local government vessels used for public safety; vessels in distress where a delay would endanger life or property; commercial vessels engaged in rescue or emergency salvage operations; and vessels seeking shelter from severe weather will remain unchanged.

The terms of the approved temporary deviation are as follows:

The draw of the US 50 bridge, mile 0.5, located in Ocean City, Maryland, shall open according to 117.559 except from July 13, 1996 through August 31, 1996, on every Saturday, the bridge need open only on the hour from 1 p.m. to 5 p.m. for any waiting vessels, and shall remain in the open position until all waiting vessels pass. Vessels in an emergency involving danger to life or property shall be passed at any time.

Kent H. Williams,

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

[FR Doc. 96-18113 Filed 7-16-96; 8:45 am]

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**33 CFR Part 165**

[COTP San Diego 96-002]

RIN 2115-AA97

**Security Zone; San Diego Bay, San Diego, CA****AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the U.S. Secret Service, the Coast Guard is establishing a temporary security zone within San Diego Bay adjacent to the San Diego Convention Center. The security zone is needed to protect those attending the Republican National Convention by securing the nearby Marriott Marina and any adjacent vessels, waterfront facilities, or waters. Authorized vessels will be permitted to remain within the security zone.

**EFFECTIVE DATES:** This rule is in effect from 8 a.m. Pacific Daylight Time (PDT) on August 11, 1996 until 11 p.m. PDT on August 15, 1996.

**ADDRESSES:** Copies of documents referenced in this rulemaking are available for inspection or copying at Marine Safety Office San Diego, 2716 N. Harbor Dr., San Diego, California between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (j.g.) John V. Reinert, Marine Safety Office San Diego, (619) 683-6486.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On May 23, 1996 the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Security Zone; San Diego Bay, San Diego, CA" (COTP San Diego, CA)" (COTP San Diego 96-002) in the Federal Register (61 FR 25838). The Captain of the Port (COTP) held public meetings on June 1 and July 2, 1996 on the proposal. Twelve people made comments at the public meetings, and 23 written comments were submitted prior to the closure of the comment period on July 8, 1996. Copies of the comments and a videotape of the public meetings are available for inspection or copying at the location indicated under **ADDRESSES**.

**Discussion of Comments and Changes**

The Coast Guard received 29 comments from individuals, 6 comments from small businesses, and two comments from organizations concerning the proposal.

Nine commenters questioned the legal authority of the COTP to perform searches of vessels within the security zone. The establishment of marine security zones is authorized by 50 U.S.C. 191. Through 33 U.S.C. 1223, 1225, and 1226, the Coast Guard is authorized to take measures, including the establishment of security zones, to protect vessels, harbors, and waterfront facilities. The authority to establish and enforce these security zones has been delegated to the COTP under 33 CFR

Parts 6 and 165. Under 33 CFR Part 6, the COTP may utilize this security zone authority to regulate navigation and other activities, and limit access to defined areas by conditioning entry or presence in the zone on receiving the permission of the COTP. When a security zone is established, vessels entering or remaining in the zone are doing so with the permission of the COTP. The COTP has determined that the Republican National Convention presents a security need for a search of vessels and facilities within this security zone in order to detect explosives, weapons, or other articles which may pose a threat to the Marriott Marina or any adjacent vessels, waterfront facilities, or waters. Under this rule, permission by the COTP for vessels to enter or remain in the security zone is conditioned upon consent to such a search. Vessel owners electing not to give consent for a search will not be granted permission to enter or remain in the security zone, once it is established.

Thirty-four comments were received regarding the proposed limitation on access to docks and vessels within the security zone between the hours of 10 p.m. and 8 a.m. In light of the comments received and a change in the event security plan by the U.S. Secret Service, the COTP has removed this item from the Final Rule.

Seventeen comments were received regarding the proposed limitation on access to the docks and restriction on vessel movements from 2 p.m. until 11 p.m. on 15 August. In light of the comments received and a change in the event security plan by the U.S. Secret Service, the COTP has removed this item from the Final Rule.

Several comments were received concerning the proposed requirement that a vessel owner or operator provide the COTP a list of names of all individuals transiting the security zone, prior to transiting the zone. In light of the comments received and a change in the event security plan by the U.S. Secret Service, the COTP has removed this item from the Final Rule.

Several questions were received concerning operational enforcement of the security zone, e.g., number of patrol boats involved, number of Coast Guard personnel, and pay grades of personnel involved with searches. Security considerations preclude publicizing Coast Guard enforcement resource information before and during the effective period of the security zone. Access to agency records regarding resources utilized may be requested after August 15, 1996 by writing to the address under **ADDRESSES**.

**Discussion of Regulations**

The Republican National Convention will be held at the San Diego Convention Center in San Diego, CA from August 12 through 15, 1996. The Secret Service has requested that the Coast Guard establish this security zone to ensure the security of those attending the Republican National Convention by securing the nearby Marriott Marina and any adjacent vessels, waterfront facilities, and waters. Expected attendees at the convention include former U.S. Presidents and their spouses, high ranking U.S. Government officials, and the Republican Presidential and Vice-Presidential Nominees and their spouses.

The security zone is in effect from 8 a.m. PDT on August 11, 1996 until 11 p.m. PDT on August 15, 1996. The security zone will encompass the entrance to the Marriott Marina starting at a point along the waterfront between Marriott Marina finger piers "F" and "G" at a point 32°42'26"N, 117°09'56"W; extending southwesterly to the south end of North Embarcadero Park at a point 32°42'20"N, 117°10'01"W; continuing 500 feet southwesterly toward channel buoy "23" at a point 32°42'16"N, 117°10'07"W; then extending southeasterly following the South Embarcadero Park shoreline to a point where it intersects with the easterly side of the navigable channel at 32°42'13"N, 117°10'02"W; then proceeding along the channel edge 100 feet past the southernmost point of South Embarcadero Park to a point 32°42'09"N, 117°09'50"W; then northeasterly until it intersects with the shoreline at a point 32°42'16"N, 117°09'42"W; then along shoreline to the point of beginning.

Pursuant to the Coast Guard's authority in 33 U.S.C. 1223, 50 U.S.C. 191, and the general regulations governing security zones in 33 CFR 165.33 and 33 CFR 6.04, no vessel will be allowed to enter or remain in this zone unless specifically authorized by the COTP. The COTP may grant permission for a vessel to enter or remain within the security zone if the vessel owner or operator first consents to a search of the vessel by the U.S. Secret Service, the Coast Guard, or other authorities for the purpose of detection of explosives, weapons, or other articles which may pose a threat to the Marriott Marina or any adjacent vessels, waterfront facilities, or waters. The owner or operator of a vessel entering the security zone must also provide the COTP with the number of persons on board and destination slip number.

Vessels whose owners or operators do not consent to a search of their vessels or who refuse to provide any information requested by the COTP will not be granted permission to enter or remain within the security zone.

The COTP may grant permission for a vessel in the moorings at the Marriott Marina to remain within the security zone if the owners or operators consent to a search of the vessel. If a vessel leaves its mooring and exits the security zone, its reentry will be conditioned on consent to be searched.

The COTP, working with Secret Service and other law enforcement authorities during this operation, may impose other restrictions within the security zone if circumstances dictate. Restrictions imposed by the COTP will be tailored to impose the least impact on maritime interests while ensuring the security of the Marriott Marina and any adjacent vessels, waterfront facilities, or waters.

#### *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. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

#### *Small Entities*

Under 5 U.S.C. 601 *et seq.*, known as the Regulatory Flexibility Act, the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small Entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The COTP will allow vessels in the Marriott Marina to remain at their moorings while the security zone is in place, subject to the conditions discussed previously. Costs incurred by vessel owners and commercial entities within the security zone are expected to be minimal. Any such costs are greatly outweighed by the need to safeguard the security of the attendees at the convention. Since the impact of this rule is expected to be minimal, 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.

#### *Collection of Information*

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### *Federalism Assessment*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### *Environmental Assessment*

This rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B, as revised in 59 FR 38654, July 29, 1994. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket and is available for inspection and copying at the address listed under **ADDRESSES**.

#### *List of Subjects in 33 CFR Part 165*

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

#### *Final Regulations*

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

#### **PART 165—[AMENDED]**

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; 49 CFR 1.46.

2. A new section 165.T11–030 is added to read as follows:

#### **§ 165.T11–030 Security Zone; San Diego Bay, San Diego, CA.**

(a) *Location.* The following area is a security zone: the water and land area adjacent to the San Diego Convention Center, San Diego, CA, described as follows:

Beginning at 32°42'26"N, 117°09'56"W; then southwest to 32°42'20"N, 117°10'01"W; then southwest to 32°42'16"N, 117°10'07"W; then southeast to the outer channel line to 32°42'13"N, 117°10'02"W; then continuing along the outer channel line

to 32°42'09"N, 117°09'50"W; then northeast to point of land at 32°42'16"N, 117°09'42"W; then along the shoreline to the point of beginning. Datum: NAD 83).

(b) *Effective dates.* This section is effective from 8 a.m. PDT on August 11, 1996 until 11 p.m. PDT on August 15, 1996.

#### (c) *Regulations.*

(1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port.

(2) The Captain of the Port may grant permission for a vessel to enter or remain within the security zone if the owners or operators consent to a search of their vessel for the purpose of locating explosives, weapons, or other articles or things which could pose a threat to the security of the Marriott Marina, adjacent vessels, waterfront facilities, or waters.

(3) All persons and vessels within the security zone shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Upon being hailed via siren, radio, flashing light, or other means, the operator of a vessel shall follow the instructions of the patrol personnel.

(4) The Captain of the Port will notify the public of the status of this security zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: July 9, 1996.

J.A. Watson,

Commander, U.S. Coast Guard, Captain of the Port, San Diego.

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#### **LIBRARY OF CONGRESS**

#### **Copyright Office**

#### **37 CFR Part 251**

[Docket No. 96–4 CARP DPRA]

#### **Digital Phonorecord Delivery Rate Adjustment Proceeding**

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final regulations, notice of initiation of negotiation period.

**SUMMARY:** The Copyright Office is announcing the initiation of the negotiation period for determining reasonable rates and terms for digital transmissions that constitute a digital phonorecord delivery. This negotiation period is mandated by the Digital