

Heublein also asserts that distilled spirits producers are placed at a competitive disadvantage by misleading malt beverage labels. However, no direct evidence has been proffered which would substantiate this claim.

Finally, Heublein asserts that the Department of the Treasury is losing excise tax revenues as consumers replace distilled spirits products with lower-taxed malt beverages. While this may or may not be true, it is not relevant to our labeling authority under the FAA Act. Congress has chosen to tax the products at a different rate and any producer may choose to produce and market lower taxed malt-based products.

Public Participation—Written Comments

ATF requests comments from all interested persons. All comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

We would note that ATF already has received several written comments regarding the issues raised in this petition. These comments will also receive careful consideration.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material that a respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927-8602, provided the comments: (1) Are legible; (2) are 8-1/2" x 11" in size; (3) contain a written signature; and (4) are three pages or less in length. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Disclosure

Copies of Heublein's full petition and written comments generated pursuant thereto will be available for public inspection during normal business hours at: ATF Reading Room, Disclosure Branch, Room 6300, 650 Massachusetts Avenue NW, Washington, DC.

Drafting Information. This notice was written by various personnel within the Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 7

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, and Labeling.

Authority. This notice is issued under the authority of 27 U.S.C. 205.

Dated: August 22, 1996.

John W. Magaw,
Director.

Approved: September 5, 1996.

John P. Simpson,
Deputy Assistant Secretary, Regulatory, Tariff
and Trade Enforcement.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08-96-053]

33 CFR Part 117

Notice of Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Coast Guard announces a forthcoming public hearing for the presentation of views concerning the alteration of the Louisiana Railroad Bridge at Louisiana, Missouri.

DATES: The hearing will be held at 10 a.m., November 21, 1996.

ADDRESSES: The hearing will be held at the City Hall, 121 North 7th Street, Louisiana, Missouri.

Written comments may be submitted to and will be available for examination from 8 a.m. to 4 p.m., Monday through Friday, except holidays, at the office of the Director, Western Rivers Operations, Bridge Section, 1222 Spruce Street, St. Louis, Missouri 63103-2398.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Wiebusch, Director, Western Rivers Operations, Bridge Branch, 1222 Spruce Street, St. Louis, Missouri 63103-2398, (314) 539-3900 ext. 378.

SUPPLEMENTARY INFORMATION: Complaints have been received alleging that the bridge is unreasonably obstructive to navigation. Information available to the Coast Guard indicates there were 140 marine allisions with the bridge between 1984 and 1995. These

allisions have caused moderate to heavy damage to the bridge. Based on this information, the bridge appears to be a hazard to navigation. This may require increasing the horizontal clearance on the bridge to meet the needs of navigation. All interested parties shall have full opportunity to be heard and to present evidence as to whether any alteration of this bridge is needed, and if so, what alterations are needed, giving due consideration to the necessities of free and unobstructed water navigation. The necessities of rail traffic will also be considered.

Any person who wishes, may appear and be heard at this public hearing. Persons planning to appear and be heard are requested to notify the Director, Western Rivers Operations, Bridge Section, 1222 Spruce Street, St. Louis, Missouri 63103-2398, Telephone: 314-539-3900 ext. 378, any time prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitations of time allocated will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of or in addition to oral statements and will be made a part of the hearing record. Such written statements and exhibits may be delivered at the hearing or mailed in advance to the Director, Western Rivers Operations, Bridge Section. Transcripts of the hearing will be made available for purchase upon request.

Authority: 33 U.S.C. 513; 49 CFR 1.46.

Dated: October 25, 1996.

T.W. Josiah,
Rear Admiral, U.S. Coast Guard Commander,
Eighth Coast Guard District.

[FR Doc. 96-28652 Filed 11-6-96; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD 05-96-010]

RIN 2115-AE84

Regulated Navigation Area; Delaware Bay and River, Salem River, Christina River, and Schuylkill River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend its regulations governing a regulated navigation area on the Delaware Bay and River. The proposed changes would extend the applicability of the regulated navigation area to include the Salem, Christina, and

Schuylkill Rivers between Trenton, NJ, and the Delaware Breakwater. The proposed changes would also institute new regulations governing vessel movement within the expanded regulated navigation area. Many of these requirements were previously imposed on a case-by case basis through issuance of temporary rules and Captain of the Port Orders. The Coast Guard believes that the proposed changes would increase public awareness and improve navigation safety within the regulated navigation area.

DATES: Comments must be received on or before February 5, 1997.

ADDRESSES: Comments should be mailed to U.S. Coast Guard Marine Safety Office (VWO), 1 Washington Avenue, Philadelphia, PA 19147-4395. The comments and other materials referenced in this notice will be available for inspection and copying at the Marine Safety Office, Philadelphia, PA during normal office hours between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LT Robert Hennessy, Assistant Chief, Port Operations Department (ACPOD), at the Marine Safety Office Philadelphia, PA, or by telephone at (215) 271-4883.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Receipt of comments will be acknowledged if a stamped self-addressed postcard is enclosed. Persons submitting comments should include their names and addresses, identify this notice (CGD 05-96-010) and the specific section of the proposal to which the comments apply, and give reasons for each comment. The Coast Guard specifically seeks comments on the proposed operational restrictions. Although not proposed at this time, the Coast Guard also seeks comments on a possible requirement that vessels carrying dangerous cargos on the Delaware River above the C&D Canal be escorted by a Coast Guard vessel in addition to a commercial tug escort.

The Coast Guard will consider all comments received during the comment period and may change this proposal in view of the comments. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid in the rulemaking process.

Discussion of Proposed Rule

This proposed rule is part of an overall safety program implemented by

the Captain of the Port, Philadelphia, PA to enhance the safe transportation of certain dangerous cargos as defined in 33 CFR 160.203 (a-e) in the Captain of the Port zone.

Existing 33 CFR 165.510 establishes a regulated navigation area for the waters of the Delaware Bay and Delaware River south of the Delaware Memorial Bridge. It prohibits a vessel with a draft of greater than 55 feet from entering the regulated navigation area. It also prohibits oil transfer operations within the regulated navigation area except within specified anchorage grounds or with the authorization of the Captain of the Port. The Coast Guard proposes to expand the regulated navigation area, apply it when vessels transit with dangerous cargos, and impose operational restrictions on vessels operating within the regulated navigation area.

Several waterfront facilities within the Philadelphia Captain of the Port (COTP) zone conduct cargo operations with vessels that carry dangerous cargos listed in 33 CFR 160.203 (a)-(e). These facilities are the Sun Refining and Marketing Company, on the Delaware River, at Marcus Hook, PA; the Sun Refining and Marketing Company Girard Point Wharf, on the Schuylkill River, at Philadelphia, PA; the Atlantic Marine Terminal, on the Delaware River, at Fairless Hills, PA; the Dupont Gibbstown facility on the Delaware River, at Gibbstown, NJ; the Coastal Eagle Point Refinery, on the Delaware River, at West Deptford, NJ; the Mid-Atlantic Shipping Terminal, on the Salem River, at Salem, NJ; the Port of Salem Terminal, on the Salem River, at Salem, NJ; and the Port of Wilmington Terminal, on the Christina River, at Wilmington, DE. Vessels routinely transit to and from these facilities. The proposed rule would extend the regulated navigation area to include the navigable waters of the Delaware Bay and the Delaware, Salem, Christina, and Schuylkill Rivers from Cape May and Harbor of Refuge Lights, north to Cape Henlopen, and on the Delaware River north to the U.S. Route 1 Bridge between Trenton, NJ and Morrisville, PA.

In the past, the Captain of the Port, Philadelphia, established a temporary safety zone whenever a vessel carrying a specified dangerous cargo transited the area. The temporary safety zone regulations routinely prohibited entry into the waters surrounding the vessel and facility without specific permission from the Coast Guard. The COTP would then impose operating restrictions, similar to the measures contained in this proposed rule, as a condition of

entry into the safety zone. These temporary rules were often issued on short notice and, as a result, were not published in the Federal Register or codified in the Code of Federal Regulations.

To avoid the need to issue temporary rules and improve the public's knowledge of potential restrictions on navigation, the Coast Guard is proposing several amendments to 33 CFR 165.510. Definitions routinely included in each temporary rule are included in the proposed rule. The proposed rule would apply to all vessels operating in the regulated navigation area, except vessels engaged in law enforcement, servicing aids to navigation, or surveying, maintaining or improving the waterways (e.g., dredges and survey vessels). The 55-foot draft limitation would be retained, but a note would be added to indicate that the projected depth of the Delaware River is 40 feet. Oil transfer operations would continue to be prohibited within the regulated navigation area except within designated anchorage grounds or with permission of the COTP.

Additional operational requirements or restrictions are proposed both for vessels carrying dangerous cargos and for vessels operating in the vicinity of vessels carrying dangerous cargos. The master, owner, or operator of a vessel carrying dangerous cargo would be required to give notice to the COTP at least 72 hours before entering or departing the regulated navigation area, and at least 12 hours before any vessel movement within the regulated navigation area. The required notice would include a report of the vessel's propulsion and machinery status and any outstanding deficiencies identified by the flag state or classification society.

A vessel carrying dangerous cargo would be prohibited from transiting within the regulated navigation area if visibility is or is expected to be less than two nautical miles. Anchoring would be permitted only in an emergency or upon COTP approval. Unless the vessel has two separate and independent steering control systems with duplicate pilot house steering gear controls, the master, owner, or operator would be required to maintain a manned watch within the steering gear compartment during any transit within the regulated navigation area. While at anchor, the master, owner, or operator would be required to have the engines in a condition that full power would be available within five minutes whenever sustained winds

exceeded 25 knots. If sustained winds reach 40 knots or more, the vessel's main engines must be on line. Each vessel would be required to have emergency towing gear rigged while underway, at anchor, or moored. Transfer of dangerous cargo would also be prohibited while a vessel is at anchor or bunkering.

Operational restrictions would also be imposed on vessels operating in the vicinity of a vessel carrying dangerous cargo. While a vessel carrying dangerous cargo is underway, no vessel would be permitted within 500 yards of either side or within 1000 yards of the bow or stern without permission of the COTP. No vessel would be allowed within 100 yards of a moored or anchored vessel carrying dangerous cargo. Commercial vessels attending a vessel carrying dangerous cargo would be allowed to transit within this area with permission from the master of the vessel carrying dangerous cargo. If permitted to enter, the vessel would be required to maintain a continuous radio guard, operate at a "no wake" speed or the minimum speed to maintain steerage, and to proceed as otherwise directed by the COTP. No vessel would be permitted to overtake a vessel carrying dangerous cargo unless the overtaking could be complete before reaching any bends in the channel and the masters or operators of both vessels clearly agree on arrangements for the overtaking.

Specific restrictions are also proposed for vessels operating above the C&D Canal. A vessel carrying dangerous cargo would be required to have a tug escort. A vessel carrying dangerous cargo and an oncoming vessel would be prohibited from meeting at a relative speed greater than prudent under the prevailing weather conditions or 20 knots, whichever is less. To the maximum extent possible, vessel masters or operators would be required to avoid meeting situations on river bends.

The proposed rule includes a provision that the COTP will announce scheduled movements of vessels carrying dangerous cargos via Broadcast Notices to Mariners. This will not only alert the maritime public that restrictions will be in effect, but it will also allow mariners to plan activities to minimize the impact of the proposed restrictions.

Regulatory Evaluation

This proposal 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The practice of establishing a safety zone around a vessel loaded with certain dangerous cargos, notably explosives and Liquefied Petroleum Gas, has been in effect for many years. Small and large companies with vessels operating in Philadelphia are aware of scheduled transits of vessels loaded with dangerous cargos and adjust their vessel movements to minimize any economic impact. The proposed restrictions have been implemented on a case-by-case basis in the form of Captain of the Port Orders or temporary safety zones for each transit. By establishing a permanent rule the Coast Guard will achieve economies in manpower and administrative time, provide the Port of Philadelphia with the widest dissemination of these precautionary measures, and minimize the potential dangers of these movements to the port community. Since this regulated navigation area is not expected to unduly impede the flow of traffic, the impact of these proposed regulations is expected to be minimal, and the Coast Guard believes that this proposal, if adopted, will have only minimal economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. This proposal would simplify the existing practice of instituting temporary safety zones for the passage of each vessel carrying dangerous cargo and is not expected to unduly impede the flow of vessel traffic. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal will have

a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

Collection of Information

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

Federalism

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

Environmental Impact

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e.(34) of Commandant Instruction M16475.1B (as revised by 61 FR 13563; March 27, 1996), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination Statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.510 is revised to read as follows:

§ 165.510 Delaware Bay and River, Salem River, Christina River and Schuylkill River—Regulated Navigation Area.

(a) *Regulated Navigation Area.* The following is a Regulated Navigation Area: The navigable waters of Delaware Bay and River, Salem River, Christina River, and Schuylkill River, in an area bounded on the south by a line drawn across the entrance to the Delaware Bay between Cape May Lighthouse and Harbor of Refuge Light and then continuing to the northernmost extremity of Cape Henlopen, and

bounded on the north by a line drawn across the Delaware River between Trenton, NJ and Morrisville, PA along the southern side of the U.S. Route 1 Bridge.

(b) *Definitions.* As used in this section:

COTP means the Captain of the Port, Philadelphia, PA and any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his or her behalf.

Dangerous cargo means those cargos listed in § 160.203 of this chapter when carried in bulk.

Underway means that a vessel is not at anchor, made fast to the shore, or aground.

(c) *Applicability.* This section applies to any vessel operating within the Regulated Navigation Area, including a naval or public vessel, except a vessel engaged in:

- (1) Law enforcement;
- (2) Servicing aids to navigation; or
- (3) Surveying, maintaining, or improving waters within the Regulated Navigation Area.

(d) *Draft limitation.* Unless otherwise authorized by the COTP, no vessel with a draft greater than 55 feet may transit within the area between the southern boundary of this regulated navigation area and the southern span of the Delaware Memorial Bridge.

Note: The projected depth of the navigational channels of the Delaware River is 40 feet.

(e) *Oil transfer operations.* Unless otherwise authorized by the COTP, no vessel may conduct oil transfer operations within the area between the southern boundary of this regulated navigation area and the southern span of the Delaware Memorial Bridge except within the anchorage ground designated in § 110.157(a)(1) of this chapter.

(f) *Requirements for vessels carrying dangerous cargos.* The master, owner, or operator of a vessel carrying a dangerous cargo listed in § 160.203 of this chapter shall:

(1) Notify the COTP at least 72 hours before the vessel enters or departs the regulated navigation area and at least 12 hours before the vessel moves within the regulated navigation area. The notice must include a report of the vessel's propulsion and machinery status and any outstanding deficiencies identified by the vessel's flag state or classification society;

(2) Not enter, get or remain underway within the regulated navigation area if visibility is or is expected to be less than two (2) miles. If during the transit visibility becomes less than two (2) miles, the vessel must seek safe

anchorage and notify the COTP immediately;

(3) Not anchor in any area within the regulated navigation area unless in times of emergency or with COTP permission;

(4) Not transfer dangerous cargo while the vessel is at anchor or bunkering;

(5) Maintain a manned watch in the steering compartment whenever the vessel is underway within the regulated navigation area unless the vessel has two separate and independent steering control systems with duplicate pilothouse steering gear control systems which meet the requirements of 46 CFR 58.25–55;

(6) When anchored within the regulated navigation area and:

(i) Sustained winds are greater than 25 knots but less than 40 knots, ensure the main engines are ready to provide full power in five minutes or less; and

(ii) Sustained winds are 40 knots or over, ensure that the main engines are on line to immediately provide propulsion;

(7) While moored within the regulated navigation area, ensure that at least two wire cable mooring lines (firewarps) are rigged and ready for use as emergency towing hookups fore and aft on the outboard side of the vessel;

(8) While underway or anchored within the regulated navigation area, ensure that at least two wire cable mooring lines (firewarps) are rigged and ready for use as emergency towing hookups fore and aft on the vessel; and,

(9) Proceed as directed by the COTP.

(g) *Requirements for vessels operating in the vicinity of a vessel carrying dangerous cargos.* (1) Except for a vessel that is attending a vessel carrying dangerous cargo with permission from the master of the vessel carrying dangerous cargo or a vessel that is anchored or moored at a marina, wharf, or pier, and which remains moored or at anchor, no vessel may, without the permission of the COTP:

(i) Come or remain within 500 yards of the port or starboard side or within 1000 yards of the bow or stern of an underway vessel that is carrying dangerous cargo; or

(ii) Come or remain within 100 yards of a moored or anchored vessel carrying dangerous cargo.

(2) The master, owner, or operator of any vessel receiving permission under paragraph (g)(1) of this section shall:

(i) Maintain a continuous radio guard on VHF-FM channels 13 and 16;

(ii) Operate at "no wake" speed or the minimum speed needed to maintain steerage, whichever is less; and

(iii) Proceed as directed by the COTP.

(3) No vessel may overtake a vessel carrying dangerous cargos unless the

overtaking can be completed before reaching any bend in the channel. Before any overtaking, the pilots, masters or operators of both the overtaking vessel and the vessel being overtaken must clearly agree on the circumstances of the overtaking, including vessel speeds, time and location of overtaking.

(h) *Additional restrictions above the C&D Canal.* When operating on the Delaware River above the C&D Canal:

(1) A vessel carrying dangerous cargo must be escorted by at least one commercial tug; and

(2) A vessel carrying dangerous cargo and an oncoming vessel shall not meet at a relative speed greater than prudent under the prevailing weather conditions or 20 knots, whichever is less. Meeting situations shall be avoided on river bends to the maximum extent possible.

(i) The COTP will issue a Broadcast Notice to Mariners to inform the marine community of scheduled vessel movements during which the restrictions imposed by paragraphs (g) and (h) of this section will be in effect.

Dated: October 7, 1996.

Kent H. Williams,
Vice Admiral, U.S. Coast Guard Commander,
Fifth Coast Guard District.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-5649-3]

National Emission Standards for Hazardous Air Pollutant Emissions from Miscellaneous Organic Chemical Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of available information and solicitation of additional information.

SUMMARY: The EPA intends to propose a single set of emission standards that will apply to more than 20 listed source categories of hazardous air pollutants (HAP). These emission standards will apply to a group of organic chemical processes for which final standards promulgation is required by November 15, 2000. The Agency anticipates that these standards will also apply to organic chemical processes that have either been excluded from the applicability of emission standards developed for other source categories, or that have not been included within a listed source category.