

movement of all vessels in the regulated area. The Patrol Commander may terminate the event at any time it is deemed necessary for the protection of life and/or property and can be reached on VHF-FM Channel 16 by using the call sign "PATCOM".

(c) *Effective Date*: These regulations will be effective from 1 p.m. to 4 p.m. on September 13, 1997.

Dated: September 3, 1997.

**Paul J. Prokop,**

*Captain, U.S. Coast Guard Commander,  
Eighth Coast Guard District Acting.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD 05-97-069]

RIN 2115-AE46

#### Special Local Regulations for Marine Events; Chesapeake Airshow, Frog Mortar Creek, Essex, Maryland

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** Special local regulations are being adopted for the Chesapeake Airshow to be held over Frog Mortar Creek, Essex, Maryland. These special local regulations are necessary to provide for the safety of life and property on U.S. navigable waters during the event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

**EFFECTIVE DATES:** This temporary regulation is effective from 10 a.m. to 5:30 p.m. EDT (Eastern Daylight Time) on September 13 and September 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer R. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore Maryland, 21226-1791, telephone number (410) 576-2674.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold the event was not received until August 18, 1997. Publishing a notice of proposed rulemaking and delaying its

effective date would be contrary to safety interests, since immediate action is needed to protect vessel traffic from the potential hazards associated with the airshow.

#### Discussion of Regulations

On September 13 and 14, 1997, the Essex-Middle River Chamber of Commerce will sponsor the Chesapeake Airshow. The event will consist of 15 aircraft flying at low altitudes in various formations over Frog Mortar Creek. These regulations are necessary to control spectator craft and provide for the safety of life and property on navigable waters during the event.

#### 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Entry into the regulated area will only be prohibited while the aircraft are actually performing. Since vessels will be allowed to transit the event area between performances, the impacts on routine navigation are expected to be minimal.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider 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 Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities, because the regulations will only be in effect for a short duration in a limited area.

#### Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.b.2.e(34)(h) of Commandant Instruction M16475.1b (as amended, 61 FR 13564; March 27, 1996), this rule is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

#### Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

#### PART 100—[Amended]

1. The authority citation for Part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary Section 100.35T-05-069 is added to read as follows:

#### § 100.35T-05-069 Frog Mortar Creek, Essex, Maryland

(a) *Definitions*:

(1) *Regulated area*: The waters of Frog Mortar Creek enclosed by:

<i>Latitude</i>	<i>Longitude</i>
39°19'54.0" North	76°24'36.0" West
39°19'48.0" North	76°24'36.0" West
39°19'24.0" North	76°24'00.0" West
39°19'18.0" North	76°24'12.0" West

All coordinates reference Datum: NAD 1983.

(2) *Coast Guard Patrol Commander*. The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special Local Regulations*:

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates:* This regulation is effective from 10 a.m. to 5:30 p.m. EDT on September 13 and 14, 1997.

Dated: September 2, 1997.

**Roger T. Rufe, Jr.,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 155

[CGD 79-116]

RIN 2115-AA03

#### Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule; Extension of a delayed compliance date, request for comments.

**SUMMARY:** The Coast Guard establishes an extended delay of the date for compliance and invites further public comments on the appropriate qualifications for a person in charge of the transfer of fuel oil as treated in the final rule regulating Qualifications for Tankermen and for Persons in Charge (PICs) of Transfers of Dangerous Liquids and Liquefied Gases, published on May 8, 1997 (62 FR 25115). The delay and additional opportunity for comment are necessary because much of the maritime industry, especially the inland towing segment, has expressed concern that it was not aware of the rule, or was confused about the section that governs fueling. The delay and opportunity for comment will ensure that the Coast Guard fully considers all viewpoints.

**EFFECTIVE DATE:** The effective date of the final rule published in the Federal Register on May 8, 1997 (62 FR 25115) remains June 9, 1997.

**Compliance Dates:** The compliance date for the revisions to 33 CFR 155.710(e) introductory text, (e)(1), (e)(2) and (e)(3) is July 1, 1998. Furthermore, the compliance date for 33 CFR 155.710(e)(4), not revised in the final rule, is July 1, 1998.

**Comments:** Comments must be received by November 17, 1997.

**ADDRESSES:** You may mail comments to the Executive Secretary, Marine Safety

Council (G-LRA, 3406) [CGD 79-116], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or deliver them to room 3406 at the above address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 800-842-8740, extension 7-1477.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Mark C. Gould, Project Manager, Maritime Personnel Qualifications Division. The telephone number is 800-842-8740, extension 7-6890.

#### SUPPLEMENTARY INFORMATION:

##### Delay of Date for Compliance

The Coast Guard establishes a further delay of date for compliance with §§ 155.710(e), (e)(1), (e)(2), (e)(3), and (e)(4); The new date is July 1, 1998. The delay for compliance will allow the Coast Guard ample time to evaluate comments received in response to this notice.

##### Request for Comments

The Coast Guard encourages interested persons to offer comments on the issues set forth in this delay of date for compliance and request for comments. Persons submitting comments should include their names and addresses, identify the docket [CGD 79-116], and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ x 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

##### Background and Purpose

On April 4, 1995, the Coast Guard published an interim rule regulating Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases [60 FR 17134]. On May 8, 1997, the Coast Guard published a final rule revising, among other things, the language of 33 CFR 155.710(e) [62 FR 25115]. The final rule did not change the requirements for fueling in 33 CFR 155.710(e), (e)(1), (e)(2), (e)(3), or (e)(4) from those in the interim rule, but it clarified the applicability of the section and made clear that the regulation covered more of the public than the public had thought. Many members of the maritime industry asked the Coast Guard to delay the date of compliance and to allow the opportunity for additional comments on § 155.710(e).

The language of the interim rule had led many operators of inland towboats

to assume that they could comply with *either* paragraph 155.710(e)(1) or (2). Paragraph (1) requires that the PIC on an inspected or uninspected vessel, required by 46 U.S.C. 8904(a) to have a licensed person aboard, hold a license that authorizes service on that vessel as master, mate, pilot, engineer, or operator, or hold a valid MMD endorsed as Tankerman-PIC or Tankerman-PIC (Barge), appropriate to the fuel oil and vessel. Paragraph (2) requires that, aboard each uninspected vessel of 100 or more gross tons, the PIC of the transfer of fuel oil be instructed both in his or her duties and in the Federal statutes and regulations on water pollution that apply to the vessel. But, as the final rule made plain, paragraph (2) covers only uninspected vessels of 100 or more gross tons *not already covered by paragraph (1)*. And, since each uninspected towing vessel (UTV) of more than 26 feet in length must carry aboard a person licensed to operate that type of vessel under 46 U.S.C. 8904, each of those UTVs must comply with paragraph (1).

After the Coast Guard published the final rule, it learned that from 2,500 to 3,000 mariners will need to obtain the licenses or merchant mariners' documents (MMDs) under paragraphs 155.710(e)(1). To obtain these credentials takes both professional experience and formal training. It will also take more training facilities than are now available. For this reason, on July 11, 1997, the Coast Guard published a notice [62 FR 37134] delaying the date for compliance with § 155.710(e), in its entirety, until January 1, 1998.

An important change in the final rule affected § 155.710(e). The PIC may now hold a merchant mariner's document (MMD) instead of a license. But the MMD must be endorsed as either (1) restricted Tankerman-PIC (as described in the final rule under § 13.111(b)); (2) Tankerman-PIC (as described in the final rule under § 13.201); or, for barges only, (3) Tankerman-PIC (Barge) (as described in the final rule under § 13.301). As the Coast Guard stressed in the final rule, it always intended for § 155.710(e)(1) to apply to UTVs.

Allowing a second person to serve as PIC was appropriate to alleviate the burden on the operator of an uninspected towing vessel (OUTV) during transfers of fuel under way, when the operator's attention and presence are necessary in the wheelhouses to ensure the safe navigation of their vessels. Most UTVs carry just one or two OUTVs. While one is navigating the vessel, the other must be getting his or her mandatory rest