

Dated: April 27, 2001.

**Greg E. Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

[FR Doc. 01-11496 Filed 5-7-01; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD01-01-058]

#### **Drawbridge Operation Regulations: Harlem River, MA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Triborough (125 Street) Bridge, at mile 1.3, across the Harlem River in New York. This deviation allows the bridge owner to keep the bridge in the closed position from June 4, 2001 through June 24, 2001. This action is necessary to facilitate necessary maintenance at the bridge.

**DATES:** This deviation is effective from June 4, 2001 through June 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Joseph Arca, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The Triborough (125 Street) Bridge, at mile 1.3, across the Harlem River, has a vertical clearance of 54 feet at mean high water, and 59 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.789(d).

The bridge owner, the Triborough Bridge and Tunnel Authority, requested a temporary deviation from the drawbridge operating regulations to facilitate maintenance and repairs at the bridge.

This deviation from the operating regulations allows the bridge owner to keep the bridge in the closed position from June 4, 2001 through June 24, 2001.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 27, 2001.

**G.N. Naccara,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD01-01-060]

#### **Drawbridge Operation Regulations: Connecticut River, CT**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Route 82 Bridge, mile 16.8, across the Connecticut River at East Haddam, Connecticut. This deviation from the regulations authorizes the bridge owner to keep the bridge in the closed position from 6 p.m. on May 21, 2001 through 6 a.m. on May 22, 2001. This deviation is necessary in order to facilitate necessary repairs at the bridge.

**DATE:** This deviation is effective from May 21, 2001, through May 22, 2001.

**FOR FURTHER INFORMATION CONTACT:** Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668-7195.

**SUPPLEMENTARY INFORMATION:** The Route 82 Bridge, at mile 16.8, across the Connecticut River has a vertical clearance in the closed position of 22 feet at mean high water and 25 feet at mean low water. The existing drawbridge operating regulations are listed at 33 CFR 117.205(c).

The owner of the bridge, Connecticut Department of Transportation, requested a temporary deviation from the drawbridge operating regulations to facilitate the replacement of the pulley system for the submarine cables at the bridge. The bridge can not open for vessel traffic during this repair work.

This deviation to the operating regulations authorizes the owner of the Route 82 Bridge to keep the bridge in the closed position from 6 p.m. on May 21, 2001 through 6 a.m. on May 22, 2001.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 27, 2001.

**G.N. Naccara,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD07-01-036]

RIN 2115-AA97

#### **Security Zone; Vicinity of Atlantic Fleet Weapons Training Facility, Vieques, PR and Adjacent Territorial Sea**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** At the request of the U.S. Navy, the Coast Guard is establishing an additional temporary security zone covering the area of territorial sea and land adjacent to the bombing and gunnery range (Impact Area) at the naval installation on the eastern end of Vieques Island, Puerto Rico. The security zone is needed to protect the bombing and gunnery range, and adjacent land and waters at the Navy's Atlantic Fleet Weapons Training Facility on Vieques Island, PR, to ensure against destruction, injury, or loss of uninterrupted use. This rule effectively extends the duration of the rule published on May 3, 2001. Only authorized vessels are permitted to enter or remain within the security zone.

**DATES:** This rule is effective from 11:59 p.m., April 30, 2001 until 11:59 p.m. May 1, 2001.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [CGD07-01-036] and are available for inspection or copying at the Seventh Coast Guard District office, 909 S.E. First Avenue, Room 918, Miami, FL, 33131, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Brian DeVries at (305) 415-6950.

**SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

In order to protect the interests of national security, and in accordance with the Presidential Directive of January 31, 2000, the President has directed the conduct of Navy Training at the Atlantic Fleet Weapons Training Facility on Vieques Island, PR. Immediate action is needed to ensure the uninterrupted use by the U.S. Navy

of the Training Facility on Vieques, including the adjacent land and waters, and to protect that facility from destruction or injury. The Coast Guard is promulgating the security zone regulations to prevent interference with the conduct of the Navy's exercises for the duration of the security zone. As a result, the enforcement of the security zone is a function directly involved in, and necessary to, the Navy training exercise. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

Even if the requirements of 5 U.S.C. 553 would otherwise be applicable, the Coast Guard for good cause finds that, under 5 U.S.C. 553(b)(B) and (d)(3), notice and public comment on the rule before the effective date of the rule and advance publication are impracticable and contrary to the public interest. There is an imminent need to use the naval installation bombing and gunnery range and the adjacent waters for ongoing scheduled exercises by the Navy which further the national security interests of the United States. Opportunity for notice and public comment or advance publication of the zone was impracticable since the Navy did not request the establishment of the zone until 30 April 2001. This regulation is geographically and temporally tailored to meet the needs of national security with a minimal burden on the public.

### Background and Purpose

The Atlantic Fleet Weapons Training Facility is located on the eastern end of Vieques Island, PR. Use of this naval installation is important to achieving acceptable levels of military readiness in accordance with established training standards and requires training exercises conducted with inert ordnance. Such training exercises cannot be safely or effectively conducted if there are unauthorized persons inside the training areas or if the installation is damaged or personnel are injured. The U.S. Army Corps of Engineers has established a danger zone in the vicinity of the bombing and gunnery target area, 33 CFR 334.1470, that is in effect during these training exercises. The Army Corps has also established a restricted area off the coast of the naval facility, 33 CFR 334.1480.

In order to further the interests of national security, and in accordance with the Presidential directive of January 31, 2000, the President has directed the conduct of Navy Training at

the Atlantic Fleet Weapons Training Facility on Vieques Island, Puerto Rico. During the current exercises, the restricted area and danger zone have not provided the degree of security required for the naval facility. These operations cannot be conducted if unauthorized personnel or vessels are present inside the security zone. Therefore, to ensure against the destruction, injury or loss of uninterrupted use of the naval installation at Vieques, including the adjacent land and waters, the Coast Guard is establishing this security zone, which effectively extends the duration of the rule published on May 3, 2001 (66 FR 22121).

The Coast Guard previously established a similar security zone (65 FR 25489) around the Atlantic Fleet Weapons Training Facility, Vieques, PR. Based on the Coast Guard's experience implementing that security zone and discussions with the U.S. Navy, the coordinates of the security zone being implemented by this regulation have been slightly modified. The coordinates of the security zone being implemented by this regulation have been altered so that the zone no longer encompasses commonly used transit paths between Vieques, PR and traditional fishing areas.

This security zone is established pursuant to the authority of subpart D of Part 165 of Title 33 of the Code of Federal Regulations and the Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including subparts 6.01 and 6.04 of part 6 of Title 33 of the Code of Federal Regulations. See Executive Order 10173, as amended. The security zone is needed to protect the bombing and gunnery range, and the adjacent facilities and water, at Vieques Island, PR against destruction, injury, or loss of uninterrupted use. Pursuant to this regulation, no vessel or person will be allowed to enter or remain in the security zone unless specifically authorized to do so by the District Commander or his designated representatives. The District Commander or his designated representatives may grant permission for a vessel to enter or remain within the security zone when operations permit and may condition that permission as appropriate. As operations permit, all efforts will be made to honor any requests to enter.

Vessels or persons violating this section are subject to the penalties set forth in 50 U.S.C. 192 and 18 U.S.C. 3571: seizure and forfeiture of the vessel, a monetary penalty of not more than \$250,000, and imprisonment for not more than 10 years.

### 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. 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

Although the security zone covers an area out to three miles from shore, the zone will be in effect for a limited amount of time. The vessel traffic in the area normally consists of a small number of commercial fishing vessels and other vessels transiting the area. These vessels are not allowed to enter or transit the zone during these training exercises under existing Army Corps of Engineer regulations (33 CFR 334.1470 and 33 CFR 334.1480). These vessels can redirect their transit around the zone with only minor delays in time and distance.

### 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.

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 or operators of vessels intending to transit or anchor in the vicinity of the Naval installation at Vieques, PR and fishing vessels which normally fish the area. These vessels are not allowed to enter or transit the zone during these training exercises under existing Army Corps of Engineer regulations (33 CFR 334.1470 and 334.1480). This security zone will not have a significant economic impact on a substantial number of these small entities. Although the security zone will cover an area out to three miles from shore, the zone will be in effect only for a limited amount of time.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–

121), we will assist small entities in understanding this rule and how it affects them. Small entities may call the person identified in **FOR FURTHER INFORMATION CONTACT**.

#### 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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### Taking of Private Property

This rule will not effect 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.

#### Environment

The Coast Guard anticipates this temporary rule will be categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.IC. This temporary rule only ensures the protection of Naval assets and the uninterrupted use of the area for scheduled Naval operations. Standard Coast Guard

manatee and turtle watch measures will be in effect during Coast Guard patrols of the security zone. Deep-water routes will be used where practical. Lookouts will be posted to avoid collision with turtles and manatees. If a collision occurs, notification will be made to the U.S. Fish & Wildlife Service at Boqueron, Puerto Rico (787–851–7297).

#### 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.

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

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

Temporary regulation: For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 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 temporary § 165.T07–036 is added to read as follows:

#### § 165.T07–036 Security Zone; Vieques Island, PR.

(a) *Location*. The following area is established as a Security Zone: An area of water and land measured from the mean high water line off the naval reservation, along the east end of Vieques Island extending from Cabellos Colorados (18°–09.82' N, 065°–23.45' W) due northeast 4 nautical miles to position 18°–12.0' N, 065°–20.0' W, then easterly around Vieques Island, remaining 3 nautical miles from the coast, to a point 3 nautical miles south of Cayo Jalovita (18°–06.83' N, 065°–21.25' W) at 18°–03.6' N, 065° 20.33' W then northwest to a baseline position of 18°–05.42' N, 065°–26.0' W at Puerto Mosquito, including the rocks, cays, and small islands within.

(b) *Regulations*. (1) In accordance with the general regulations in § 165.33 of this part:

(i) No person or vessel may enter or remain in this zone without the

permission of the District Commander or designated representatives,

(ii) All persons within this zone shall obey any direction or order of the District Commander or designated representatives,

(iii) The District Commander or designated representatives may take possession and control of any vessel in this zone,

(iv) The District Commander or designated representatives may remove any person, vessel, article or thing from this zone,

(v) No person may board, or take or place any article or thing on board, any vessel in this zone without the permission of the District Commander or designated representatives; and,

(vi) No person may take or place any article or thing upon any waterfront facility in this security zone without the permission of the District Commander or designated representatives.

(2) The District Commander or designated representatives may grant permission for individual vessels to enter or remain within this security zone when permitted by operational conditions and may place conditions upon that permission. Vessels permitted to enter or remain in this zone must radio the patrol commander upon entering and departing the zone.

(c) *Enforcement*. Vessels or persons violating this section are subject to the penalties set out in 50 U.S.C. 192 and 18 U.S.C. 3571:

(1) Seizure and forfeiture of the vessel;

(2) A monetary penalty of not more than \$250,000; and

(3) Imprisonment for not more than 10 years.

(d) *Dates*. This section is effective from 11:59 p.m. April 30, 2001 until 11:59 p.m. May 1, 2001.

(e) *Authority*. In addition to the authority in part 165, this section is also authorized under authority of Executive Order 10173, as amended.

Dated: April 30, 2001.

**Thad. W. Allen,**

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

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