

**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 Third Avenue Bridge, at mile 1.9, across the Harlem River in New York City. This deviation from the regulations allows the bridge owner to require at least a 48 hour advance notice for openings from 10 a.m. to 5 p.m., daily, from August 4, 2000 through September 17, 2000. This action is necessary to facilitate manual operation of the bridge and electrical repairs at the bridge.

**DATES:** This deviation is effective August 4, 2000, through September 17, 2000.

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

**SUPPLEMENTARY INFORMATION:** The Third Avenue Bridge, at mile 1.9, across the Harlem River has a vertical clearance of 25 feet at mean high water, and 30 feet at mean low water in the closed position.

The existing operating regulations in 33 CFR 117.789(a) require the bridge to open on signal from 10 a.m. to 5 p.m., daily.

The bridge owner, the New York City Department of Transportation, requested a temporary deviation from the drawbridge operating regulations because the electrical operating system for the Third Avenue Bridge has failed and the bridge can be opened only by manual operation. The bridge owner needs at least a 48 hour advance notice to facilitate the mobilization of equipment and personnel to open the bridge manually during the time period the electrical operating system is being repaired.

This deviation to the operating regulations allows the owner of the Third Avenue Bridge to require at least a 48 hour advance notice for openings, 10 a.m. to 5 p.m., August 4, 2000 through September 17, 2000. Vessels that can pass under the bridge without an opening may do so at all times.

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: August 15, 2000.

**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

[CGD05-00-035]

RIN 2115-AA97

#### Safety Zone; Chesapeake Bay, Hampton, VA.

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the 1812 Overture Fireworks display to be held on a deck barge in Chesapeake Bay, adjacent to Fort Monroe, Hampton, Virginia. This action is intended to restrict vessel traffic on Chesapeake Bay, within a 1000-foot radius of a fireworks laden barge. The safety zone is necessary to protect mariners and spectators from the hazards associated with the fireworks display.

**DATES:** This temporary final rule is effective from 8 p.m. until 9 p.m. on August 24, 2000.

**ADDRESSES:** USCG Marine Safety Office Hampton Roads maintains the public docket for this rulemaking. Documents indicated in this preamble as being available in this docket, will become part of this docket and will be available for inspection or copying at the Marine Safety Office, 200 Granby St., Norfolk, VA, 23510 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Petty Officer Roddy Corr, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441-3290.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

A Notice of Proposed Rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553, the Coast Guard finds that good cause exists for not publishing a NPRM. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**.

The Coast Guard received confirmation of this request for a temporary safety zone on July 6, 2000. There was insufficient time to publish a proposed rule in advance of the event. Publishing an NPRM and delaying the effective date of the regulation would be contrary to the public interest, because immediate action is necessary to protect the vessels and spectators from the

hazards associated with the fireworks display.

#### Background and Purpose

The Coast Guard is establishing a temporary safety zone for the 1812 Overture Fireworks Display to be held on a deck barge in Chesapeake Bay adjacent to Fort Monroe, Hampton, Virginia. The safety zone will restrict vessel traffic on a portion of the Chesapeake Bay, within a 1000-foot radius of the fireworks deck barge, located in approximate position 37°00'03"N, 076°18'26"W (NAD 1983). The safety zone is necessary to protect mariners and spectators from the hazards associated with the fireworks display.

The safety zone is effective from 8 p.m. until 9 p.m. on August 24, 2000. Entry into this safety zone is prohibited unless authorized by the Captain of the Port Hampton Roads. Public notifications will be made prior to the event via local notice to mariners and marine information broadcasts.

#### Regulatory Evaluation

This temporary final 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).

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This temporary final rule will only affect a limited area for one hour and only affects the waters of Chesapeake Bay adjacent to Fort Monroe within a 1000-foot radius of the fireworks deck barge. Alternative routes exist for maritime traffic, and advance notification via marine information broadcasts will enable mariners to plan their transit to avoid the safety zones.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), 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.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This regulation will be in effect for one hour and only affects the waters of the Chesapeake Bay adjacent to Fort Monroe within a 1000-foot radius of the fireworks deck barge, and advance notification via marine information broadcasts will enable mariners to plan their transit to avoid entering the safety zone.

Therefore, 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.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. No requests for assistance in understanding this rule were received.

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).

#### Collection of Information

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

#### 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 would 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 considered the environmental impact of this temporary final rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" will be available in the docket where indicated under ADDRESSES.

#### 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—[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. § 165.100 is also issued under authority of Sec. 311, Pub. L. 105-383.

2. Add temporary § 165.T05-035 to read as follows:

#### § 165.T05-035 Safety Zone; Chesapeake Bay, Hampton, VA.

(a) *Location.* The following area is a safety zone: All waters of the Chesapeake Bay within a 1000-foot radius of a fireworks laden barge in approximate position 37°00'03"N, 076°18'26"W.

(b) *Captain of the Port.* Captain of the Port means the Commanding Officer of the Marine Safety Office Hampton Roads, Norfolk, VA or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on his behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones found in § 165.23 of this part.

(2) Persons or vessels requiring entry into or passage through a safety zone must first request authorization from the Captain of the Port. The Captain of the Port's representative enforcing the safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (757) 484-8192.

(3) The Captain of the Port will notify the public of changes in the status of this safety zone by marine information broadcast on VHF marine band radio, channel 22 (157.1 MHz).

(d) *Effective dates.* This section will be effective from 8 p.m. until 9 p.m. on August 24, 2000.

Dated: August 4, 2000.

**L. M. Brooks,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[CGD01-00-203]

RIN 2115-AA97

### Safety Zone: McArdle (Meridian Street) Bridge, Chelsea River, Chelsea, MA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Chelsea River for the McArdle Bridge. The safety zone temporarily closes all waters of the Chelsea River 100 yards upstream and 100 yards downstream from the centerline of the McArdle Bridge. The safety zone is needed to protect vessels from the hazards posed during repairs to the bascule floor beams and bridge fender system.

**DATES:** This rule is effective from Friday, August 11, 2000, through Friday, October 6, 2000. During the effective dates, the channel will be closed Monday through Thursday from