

### 10. 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### 11. 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.

### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerns Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or

procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

### List of Subjects in 33 CFR Part 117

#### Bridges

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.619, add paragraph (f) to read as follows:

#### § 117.619 Taunton River.

\* \* \* \* \*

(f) The draw of the Veterans Memorial Bridge, mile 2.1, across the Taunton River between Fall River and Somerset, shall operate as follows:

(1) From 7 a.m. through 3 p.m. the draw shall open on signal.

(2) From 3 p.m. through 7 a.m. the draw shall open on signal provided a two hour advance notice is given by calling the number posted at the bridge.

Dated: July 29, 2013.

**D.B. Abel,**

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

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2013-0684]

#### Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the draw of the Norfolk Southern #5 Railroad Bridge, across the Elizabeth River Eastern Branch, mile 1.1, at Norfolk, VA. This

deviation is necessary to facilitate replacing the broken tread plates and shimming the remaining tread plates to the proper elevation on the Norfolk Southern #5 Railroad drawbridge. There are a total of 10 tread plates that need to be replaced. This temporary deviation allows the drawbridge to remain in the closed to navigation position.

**DATES:** This deviation is effective from 10 a.m. on August 19, 2013 to 6 p.m. August 30, 2013.

**ADDRESSES:** The docket for this deviation, [USCG-2013-0684] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mrs. Kashanda Booker, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398-6227, email [Kashanda.l.booker@uscg.mil](mailto:Kashanda.l.booker@uscg.mil). If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The Norfolk Southern Corporation, who owns and operates this drawbridge, has requested a temporary deviation from the current operating regulation set out in 33 CFR 117.5 to facilitate thermite welding on the rails.

Under the regular operating schedule, the Norfolk Southern #5 Railroad Bridge, mile 1.1, in Norfolk, VA, the draw must open promptly and fully for the passage of vessels when a request or signal to open is given. The draw normally is maintained in open-to-navigation position and only closes for train crossings or periodic maintenance. The Norfolk Southern #5 railroad Bridge, at mile 1.1, across the Elizabeth River (Eastern Branch) in Norfolk, VA, has a vertical clearance in the closed position to vessels of 6 feet above mean high water.

Under this temporary deviation, the drawbridge will be maintained in the closed to navigation position each day, from 10 a.m. to 6 p.m., on August 19, 2013 until August 30, 2013. At all other times, the drawbridge will operate under its normal operating schedule. The drawbridge normally is maintained in the open-to-navigation position with

several vessels transiting a week and only closes when trains transit. Emergency openings cannot be provided during the closure period. There are no alternate routes for vessels transiting this section on the Eastern Branch of the Elizabeth River; however, vessels requiring an opening may pass before 10 a.m. and after 6 p.m. Mariners able to pass under the bridge in the closed position may do so at any time and are advised to proceed with caution.

The Elizabeth River Eastern Branch is used by a variety of vessels including military, tugs, commercial, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with these waterway users. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 6, 2013.

**Waverly W. Gregory, Jr.,**

*Bridge Program Manager, Fifth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2013-0701]

RIN 1625-AA00

#### **Safety Zone; Thunder on the Niagara, Niagara River, North Tonawanda, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Niagara River near North Tonawanda, NY. This safety zone is intended to restrict vessels from a portion of the Niagara River during the Thunder on the Niagara hydroplane race. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a hydroplane race.

**DATES:** This rule will be effective from 9:30 a.m. on August 17, 2013, until 5:30

p.m. August 18, 2013. This rule will be enforced from 9:30 a.m. until 5:30 p.m. on August 17 and 18, 2013.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG-2013-0701]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9573, email [SectorBuffaloMarineSafety@uscg.mil](mailto:SectorBuffaloMarineSafety@uscg.mil). If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking  
TFR Temporary Final Rule

#### **A. Regulatory History and Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards

associated with a hydroplane race, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

#### **B. Basis and Purpose**

Between 10 a.m. and 5 p.m. on August 17 and 18, 2013, a series of hydroplane races will take place on the Niagara River near North Tonawanda, NY. The Captain of the Port Buffalo has determined that hydroplane races create a significant risk to public safety and property. Such hazards include collisions between participants and the boating public.

#### **C. Discussion of the Final Rule**

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone regulation is necessary to ensure the safety of spectators and vessels during the Thunder on the Niagara hydroplane race series. This safety zone regulation will be enforced from 9:30 a.m. until 5:30 p.m. on August 17 and 18, 2013. This zone will encompass all waters of the Niagara River, near North Tonawanda, NY within two miles of the Grand Island Bridge located within a zone described by the following positions: Beginning at 43°03'32.95" N, 078°54'46.93" W to 43°03'14.55" N, 078°55'15.97" W then to 43°02'39.72" N, 078°54'13.05" W then to 43°02'59.99" N, 078°53'41.99" W and returning to the point of origin (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

#### **D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### *1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving