

a temporary deviation from the drawbridge operation regulations to facilitate the completion of painting operations at the bridge. The bridge must remain in the closed position to perform this work.

The Coast Guard previously issued a 30 day temporary deviation effective from April 1, 2003, through April 30, 2003, to facilitate painting operations at this bridge. Inclement weather conditions during the effective period of the first temporary deviation have resulted in a second request from the bridge owner for an additional 15 days to complete painting operations at the bridge.

The Coast Guard coordinated this second closure with the mariners who normally use this waterway to help facilitate this necessary bridge maintenance and to minimize any disruption to the marine transportation system.

Under this temporary deviation the Wantagh State Parkway Bridge will remain in the closed position from 6 a.m. on May 1, 2003, through 4 p.m. on May 15, 2003.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: April 29, 2003.

**John L. Grenier,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08-03-020]

#### **Drawbridge Operation Regulations; Lower Grand River (Alternate Route), Grosse Tete, LA**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Grosse Tete Swing Span Highway Bridge across Lower Grand River (Alternate Route), mile 47.0, at Grosse Tete, Iberville Parish, LA. This deviation allows the bridge to remain closed to navigation from May 20, 2003, through May 22, 2003. The deviation is necessary to

conduct scheduled maintenance to the drawbridge.

**DATES:** This deviation is effective from 6:30 a.m. on May 20, 2003, through 8:30 p.m. on May 22, 2003.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Kay Wade, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The Louisiana Department of Transportation and Development has requested a temporary deviation in order to remove and replace the swing cylinders of the swing span bridge across Lower Grand River (Alternate Route) at mile 47.0 at Grosse Tete, Iberville Parish, Louisiana. This maintenance is essential for the continued safe operation of the bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 6:30 a.m. on Tuesday, May 20, 2003, through 8:30 p.m. on Thursday, May 22, 2003.

The swing span bridge has a vertical clearance of 2.5 feet above mean high water, elevation 9.0 feet Mean Sea Level and 11.5 feet above mean low water, elevation 0.0 Mean Sea Level in the closed-to-navigation position. Navigation at the site of the bridge consists mainly of tows with barges and some recreational craft. There are no commercial fishermen that transit the waterway at the bridge site. Due to prior experience, as well as coordination with water way users, it has been determined that this three day closure will not have a significant effect on these vessels. The bridge normally opens to pass navigation an average of 490 times per month. In accordance with 33 CFR 117.478, the draw of the LA 77 bridge, mile 47.0 (Alternate Route) at Grosse Tete, shall open on signal; except that, from about August 15 to about June 5 (the school year), the draw need not be opened from 6 a.m. to 8 a.m. and from 2:30 p.m. to 4:30 p.m., Monday through Friday except Federal holidays. The draw shall open on signal at any time for an emergency aboard a vessel. The bridge will not be able to open for emergencies during the closure period. Alternate routes are available. Mariners

may transit the area via the Mississippi River through the Harvey Canal lock or via the Atchafalaya River through the Old River lock.

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 28, 2003.

**Marcus Redford,**

*Bridge Administrator.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Port Arthur 03-002]

**RIN 1625-AA00**

#### **Safety Zones; Port Neches Riverfest, Neches River, Port Neches, TX**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zones for all waters of the Neches River adjacent to Port Neches Park in Port Neches, TX. These safety zones are necessary to protect spectators and vessels from the potential safety hazards associated with boat races and a fireworks display that are part of the Port Neches Chamber of Commerce Riverfest. Entry into these zones by anyone other than event participants is prohibited, unless specifically authorized by the Captain of the Port, Port Arthur or a designated representative.

**DATES:** This rule is effective from 1 p.m. on May 10, 2003, until 6 p.m. on May 11, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket (COTP Port Arthur-03-003) and are available for inspection or copying at Marine Safety Office Port Arthur, 2875 Jimmy Johnson Blvd., Port Arthur, TX 77640 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade (LTJG) Bryan Markland, Waterways Management Branch, Marine Safety Office Port Arthur at (409) 723-6500.

**SUPPLEMENTARY INFORMATION:**

## Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. Publishing an NPRM would be contrary to public interest because immediate action is needed to protect vessels and mariners from the hazards associated with this event. The Coast Guard did not receive notice of the Port Neches Riverfest in sufficient time to publish an NPRM.

## Background and Purpose

The Port Neches Chamber of Commerce Riverfest will include a fireworks display as well as a series of boat races on the Neches River, adjacent to Port Neches Park, Port Neches, TX. Safety zones are established for those events to ensure the safety of the participants, spectators, and other vessels.

The fireworks safety zone will encompass all waters of the Neches River, shore to shore, adjacent to Port Neches Park between a northern boundary at 30°00'00" N. and southern boundary at 29°59'42" N. Those coordinates are based upon (NAD 83). This safety zone will be enforced from 8 p.m. to 10 p.m. on May 10, 2003.

The safety zone for the boat races will encompass all waters of the Neches River, shore to shore, adjacent to Port Neches Park in Port Neches, Texas, between a northern boundary at 30°00'12" N. and southern boundary at 29°59'36" N. Those coordinates are based upon (NAD 83). This safety zone will be enforced from 1 p.m. to 6 p.m. on May 10, 2003, and from 8 a.m. to 6 p.m. on May 11, 2003.

Entry into these zones by anyone other than event participants is prohibited, unless authorized by the Captain of the Port Port Arthur or a designated representative.

## Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 Homeland Security.

During the boat races on May 10, 2003, the waterway will be closed for 5 hours between 1 p.m. and 6 p.m. On May 11, 2003, the waterway will be closed for 10 hours. There will be two breaks during the May 11, 2003, boat

races. During those breaks, vessel traffic will be allowed to pass through the zone as directed by the Coast Guard patrol commander. The break periods will begin at approximately 11 a.m. and 3 p.m. and each will last about an hour. Notifications of the safety zones and break periods will be made to the marine community by broadcast notices to mariners, through the event sponsors, and by publication in the **Federal Register**. The impacts on routine navigation are expected to be minimal.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 proposed rule would 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 and operators of vessels intending to transit the portion of the Neches River adjacent to Port Neches Park, Port Neches, TX, from 1 p.m. to 6 p.m. and 8 p.m. to 10 p.m. on May 10, 2003, and from 8 a.m. to 6 p.m. on May 11, 2003.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The safety zone for the fireworks will only be in effect for a short period of time; (2) there will be two breaks during the May 11, 2003, boat races and during those breaks vessel traffic will be allowed to pass through the zone as directed by the Coast Guard patrol commander, and (3) notifications of the safety zones and break periods will be made to the marine community by broadcast notices to mariners and event sponsors.

If you are a small business entity and are significantly affected by this regulation please contact LTJG Bryan Markland, Marine Safety Office Port Arthur, at (409) 723–6500.

## 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 could better evaluate its effects on them

and participate in the rulemaking process.

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. 3501–3520).

## Federalism

Arule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

## Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

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

### 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

### 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 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), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T08–033 is added to read as follows:

#### § 165.T08–033 Safety Zones; Port Neches Riverfest, Neches River, Port Neches, TX.

(a) *Regulated Areas.* The following areas are safety zones:

(1) *Fireworks safety zone.* All waters of the Neches River, shore to shore, adjacent to Port Neches Park, Port Neches, TX, between a northern boundary at 30°00'00" N and southern boundary at 29°59'42" N. Those coordinates are based upon [NAD 83].

(2) *Boat race safety zone.* All waters of the Neches River, shore to shore, adjacent to Port Neches Park, Port Neches, TX, between a northern boundary at 30°00'12" N and southern boundary at 29°59'36" N. Those coordinates are based upon [NAD 83].

(b) *Enforcement dates.* (1) The fireworks safety zone in paragraph (a)(1) of this section will be enforced from 8 p.m. to 10 p.m. on May 10, 2003.

(2) The boat race safety zone in paragraph (a)(2) of this section will be enforced from 1 p.m. to 6 p.m. on May 10, 2003, and from 8 a.m. to 6 p.m. on May 11, 2003.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into the safety zones in this section is prohibited unless authorized by the Captain of the Port Port Arthur or a designated representative.

(2) Vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Port Arthur or a designated representative. They may be contacted via VHF Channel 16 or by telephone at 409–723–6500.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Port Arthur and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: April 2, 2003.

**Eric A. Nicolaus,**

*Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IL207–3; FRL–7487–5]

#### Approval and Promulgation of Implementation Plans; Illinois Emission Test Averaging

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving revisions to Illinois rules for averaging of emission tests. Illinois requested these revisions on October 9, 2001. For sources with steady emission rates, these revisions provide for assessing compliance with mass emission limits on the basis of an average of three test runs.

EPA proposed to approve these revisions on April 15, 2002, at 67 FR 18115. The Environmental Law & Policy Center and others submitted a comment letter objecting to this proposed approval. The comments observed that averaging three test runs yields a less stringent compliance test than assessing compliance based on each test run individually. The commenters thus view the submittal as an inappropriate relaxation. The comments further object that the State's rules provide for insufficient information on case-specific test protocol revisions to be able to judge how these revisions would affect test results.

EPA concludes that averaging of three mass measurement test runs is standard practice, and concludes that Illinois is formalizing its pre-existing approach and not relaxing its compliance assessments. EPA concludes further that Illinois has adopted an appropriate approach to differentiating between major and minor test method revisions and to addressing minor revisions.

**DATES:** This rule is effective on June 9, 2003.

**ADDRESSES:** Copies of the Illinois submittal and other information are available for inspection during normal business hours at the following address: (We recommend that you telephone John Summerhays at (312) 886–6067, before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air Programs Branch (AR–18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, Environmental Scientist, United States Environmental Protection Agency, Region 5, Air Programs Branch (AR–18J), Regulation Development