

FOR FURTHER INFORMATION CONTACT:

Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION: In June 2006, the southernmost portion of the bascule spans for the new Woodrow Wilson Memorial Bridge, at mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland was publicly placed into service, switching I-95 Northbound traffic onto the new Outer Loop portion of the bridge. The newly-constructed portion of the bridge will be required to open for vessels in accordance with the current drawbridge operating regulations set out in 33 CFR 117.255(a).

While the drawbridge is operational, coordinators for the construction of the new Woodrow Wilson Bridge Project indicated that the bascule span is not yet fully commissioned and cannot run at full speed, resulting in extended Interstate 95/495 traffic stoppages during openings. Opening the new bascule span for a vessel at this time would take approximately 45 minutes in a best case scenario. This has the potential to have a significant impact upon I-95 traffic, especially during the 10 a.m. to 2 p.m. bridge-opening time frame currently available for commercial vessels, in accordance with 33 CFR 117.255(a).

Coordinators requested a temporary deviation from the current operating regulation for the new Woodrow Wilson Memorial (I-95) Bridge set out in 33 CFR 117.255(a).

Though good progress has been made regarding commissioning of the north and south drawbridges (both now carrying I-95 vehicle traffic), the coordinators are requesting an additional six months of the 10 a.m. to 2 p.m. restriction of bridge operation to proceed with commissioning activities through January 25, 2008. From a river-user standpoint, the coordinators have received no requests from boaters or mariners to open during the 10 a.m. to 2 p.m. timeframe since the restriction was issued in late June 2006. In fact, the coordinators have received no complaints on the 10 a.m. to 2 p.m. restriction.

The coordinators requested that the new Outer Loop portion of the new drawbridge not be available for openings for vessels each day between the hours of 10 a.m. to 2 p.m. from Monday, July 23, 2007 through Friday, January 25, 2008, or until the bridge is properly commissioned, whichever comes first. The temporary deviation will only affect vessels with mast heights of 75 feet or greater.

Management of the Federal and auxiliary channels will continue to be closely coordinated between the coordinators for the construction of the new Woodrow Wilson Bridge Project, the Coast Guard and vessels requesting transit through the construction zone. Furthermore, all affected vessels with mast heights greater than 75 feet will be able to receive an opening of the new drawbridge in the "off-peak" vehicle traffic hours (evening and overnight) in accordance with 33 CFR 117.255(a). Maintaining the new drawbridge in the closed-to-navigation position each day from 10 a.m. to 2 p.m. on July 23, 2007 through January 25, 2008, will help reduce the impact to vehicular traffic during this phase of the new bridge construction.

The Coast Guard has informed the known users of the waterway of the closure period for the bridge so that these vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: July 16, 2007.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[COTP JACKSONVILLE 07-163]

RIN 1625-AA87

Security Zones; Escorted Vessels in the Captain of the Port Jacksonville Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily establishing security zones around any vessel escorted by one or more Coast Guard, State, or local law enforcement assets within the Captain of the Port Zone Jacksonville, FL. No vessel or person is allowed within 100-yards of an escorted vessel, while within the navigable waters of the Captain of the Port Zone, Jacksonville, FL, unless authorized by the Captain of the Port Jacksonville, FL or designated representative. Additionally, all vessels within 500 yards of an escorted vessel in the Captain of the Port Zone

Jacksonville, FL will be required to operate at a minimum speed necessary to maintain a safe course. This action is necessary to protect personnel, vessels, and facilities from sabotage or other subversive acts, accidents, or other events of a similar nature.

DATES: This rule is effective from July 1, 2007, through January 1, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (COTP Jacksonville 07-163) and are available for inspection or copying at Coast Guard Sector Jacksonville, 4200 Ocean St, Atlantic Beach, FL 32233, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Austin Ives at Coast Guard Sector Jacksonville Prevention Department, Florida tel: (904) 564-7563.

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 that good cause exists for not publishing an NPRM. Security zones around escorted vessels are necessary to ensure the safe transit of the escorted vessels as well as the public. Certain vessel movements are more vulnerable to terrorist acts and it would be contrary to the public interest to publish an NPRM which would incorporate a notice and comment period that would delay the effective date of this regulation.

For the same reasons and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The terrorist attacks of September 2001 heightened the need for development of various security measures throughout the seaports of the United States, particularly around vessels and facilities whose presence or movement creates a heightened vulnerability to terrorist acts; or those for which the consequences of terrorist acts represent a threat to national security. The President of the United States has found that the security of the United States is and continues to be endangered following the attacks of September 11 (E.O. 13,273, 67 FR 56215, Sep. 3, 2002). Additionally, national security and intelligence officials continue to warn that future terrorist attacks are likely.

King's Bay, GA, and the Ports of Jacksonville, FL, and Canaveral, FL

receive vessels that carry sensitive Department of Defense cargoes as well as foreign naval vessels that require additional safeguards. The Captain of the Port (COTP) Jacksonville has determined that these vessels have a significant vulnerability to subversive activity by vessels or persons within the Jacksonville Captain of the Port Zone, as described in 33 CFR 3.35–20. This rule enables the COTP Jacksonville to provide effective port security, while minimizing the public's confusion and ease the administrative burden of implementing separate temporary security zones for each escorted vessel.

Discussion of Rule

This rule prohibits persons and vessels from coming within 100 yards of all escorted vessels within the navigable waters of the Captain of the Port Zone Jacksonville, FL, as described in 33 CFR 3.35–20. No vessel or person may enter within a 100-yard radius of an escorted vessel unless authorized by the Coast Guard Captain of the Port Jacksonville, FL or his designated representative. Persons or vessels that receive permission to enter the security zone must proceed at a minimum safe speed and must comply with all orders issued by the COTP or his designated representative. Additionally, a vessel operating within 500 yards of an escorted vessel must proceed at a minimum speed necessary to maintain a safe course, unless otherwise required to maintain speed by the navigation rules, and must comply with the orders of the COTP Jacksonville or his designated representative. It is expected that the duration of this rule will allow us to complete a notice-and-comment rulemaking for a permanent solution to the problem this temporary final rule addresses.

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.

While recognizing the potential impacts to the public, the Coast Guard believes the security zones are necessary for the reasons described above. However, we expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. There is generally enough room for vessels to navigate around these security zones. Where such room is not available and security conditions

permit, the Captain of the Port will attempt to provide flexibility for individual vessels as needed.

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 rule would not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit King's Bay and the Ports of Jacksonville and Canaveral in the vicinity of escorted vessels. This rule would not have a significant impact on a substantial number of small entities because the zones are limited in size, leaving in most cases ample space for vessels to navigate around them. The zones will not significantly impact commercial and passenger vessel traffic patterns, and mariners will be notified of the zones via Local Notice to Mariners and marine broadcasts. Where such room is not available and security conditions permit, the Captain of the Port will attempt to provide flexibility for individual vessels to transit through the zones as needed.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would affect it economically.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

A rule 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. Although this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect 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 would 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. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, 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 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects 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 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07–163 to read as follows:

§ 165.T07–163 Security Zones; Escorted Vessels in the Captain of the Port Jacksonville Zone.

(a) *Definitions.* The following definitions apply to this section:

Designated representatives means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Jacksonville, Florida, in the enforcement of the regulated navigation areas and security zones.

Escorted vessel means a vessel, other than a U.S. naval vessel as defined in § 165.2015 that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets as listed below:

(1) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2) Coast Guard Auxiliary surface asset displaying the Coast Guard Auxiliary insignia.

(3) State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

Minimum Safe Speed means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for a particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

- (1) On a plane;
- (2) In the process of coming up onto or coming off a plane; or
- (3) Creating an excessive wake.

State and/or local law enforcement officer means any State or local government law enforcement officer who has authority to enforce State or local laws.

(b) *Regulated Area.* All navigable waters within the Captain of the Port Zone Jacksonville, FL, as described in 33 CFR 3.35–20.

(c) *Regulations.* (1) A 100-yard Security Zone is established around, and centered on each escorted vessel within the Regulated Area. This is a moving security zone when the escorted vessel is in transit and becomes a fixed zone when the Escorted vessel is anchored or moored. The general regulations for Security Zones contained in § 165.33 of this part apply to this section.

(2) A vessel in the Regulated Area operating between 100 yards and 500 yards of an Escorted vessel must proceed at the minimum safe speed, unless otherwise required to maintain speed by the navigation rules, and must comply with the orders of the COTP Jacksonville or his designated representative.

(3) Persons or vessels shall contact the COTP Jacksonville to request permission to deviate from these regulations. The COTP Jacksonville may be contacted at (904) 247–7318 or on VHF channel 16.

(4) The COTP will inform the public of the existence or status of Escorted vessels in the Regulated Area by Broadcast Notice to Mariners.

(d) *Dates.* This section is effective from July 1, 2007, through January 1, 2008.

Dated: June 29, 2007.

Paul F. Thomas,
Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

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