

**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 Amtrak Old Saybrook-Old Lyme Bridge, mile 3.4, across the Connecticut River, Connecticut. This deviation from the regulations allows the bridge owner to require a twelve-hour advance notice for bridge openings between 6 p.m. and 6 a.m. from 10 p.m. on January 14, 2005 through 10 a.m. on February 14, 2005. This deviation is necessary in order to facilitate necessary inspection and repairs at the bridge.

**DATES:** This deviation is effective from January 14, 2005 through February 14, 2005.

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

**SUPPLEMENTARY INFORMATION:** The Old Saybrook-Old Lyme Bridge, at mile 3.4, across the Connecticut River has a vertical clearance in the closed position of 19 feet at mean high water and 22 feet at mean low water. The existing drawbridge operating regulations are listed at 33 CFR 117.205(b).

The owner of the bridge, National Railroad Passenger Corporation (Amtrak), requested a temporary deviation from the drawbridge operating regulations to facilitate electrical maintenance repairs at the bridge.

This deviation to the operating regulations allows the bridge owner to require at least a twelve-hour advance notice for bridge openings at the Old Saybrook-Old Lyme Bridge between 6 p.m. and 6 a.m. from 10 p.m. on January 14, 2005 through 10 a.m. on February 14, 2005.

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: November 22, 2004.

**David P. Pekoske,**

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

[FR Doc. 04-26747 Filed 12-3-04; 8:45 am]

**BILLING CODE** 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD07-04-146]

RIN 1625-AA11

#### Regulated Navigation Area; San Carlos Bay, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule; request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary regulated navigation area on the waters of San Carlos Bay, Florida. The regulated navigation area is needed to minimize the risk of potential bridge allisions by vessels utilizing the main channel under span "A" (bascule portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge. Vessels transiting the regulated navigation area must comply with all the regulations of the temporary section; however the Coast Guard may change this rule based on comments received.

**DATES:** This rule is effective from 11:59 p.m. on November 28, 2004 until 8 a.m. on November 28, 2005. Comments must be received by January 29, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD07-04-146 and are available for inspection or copying at the Seventh Coast Guard District Marine Safety Division, 8th Floor, 909 SE., 1st Ave., Miami, FL 33131-3050 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may send comments and related materials to Commander (M) Seventh Coast Guard District Marine Safety Division, 8th Floor, 909 SE. 1st Ave., Miami, FL 33131-3050.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Steven Lang, Project Officer, Seventh Coast Guard District, Marine Safety Branch at 305-415-6865.

#### 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. Information concerning the unchanged condition of the Sanibel Island Bridge was not received until November 2, 2004. The Bridge continues to pose a

safety hazard to vessel and vehicle traffic transiting the area. Therefore, publishing an NPRM and delaying its effective date would be contrary to the public interest because immediate action is needed to minimize the risk of potential bridge allisions by vessels utilizing the main channel under span "A" (bascule portion) of the bridge and to enhance the safety of vessels transiting the area and vehicles crossing over the bridge. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restrictions.

For the same reasons, 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**.

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Division, Seventh Coast Guard District, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD07-04-146), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

#### Background and Purpose

On November 18, 2003, the Lee County Board of Commissioners issued an emergency declaration that present conditions of the Sanibel Island Causeway Bridge pose an immediate threat to the safety of the traveling public. Immediate initial action was required to minimize the risk of potential bridge allisions of vessels utilizing the main channel under span "A" (bascule portion) and enhance the safety of vessels transiting the area and vehicles crossing over the bridge. The Coast Guard established an RNA (68 FR 68518) in the vicinity of the bridge from November 29, 2003, through November 28, 2004.

On November 2, 2004, Sanibel County engineers reevaluated the Sanibel Island

Bridge. The condition of the bridge continues to pose a threat to the safety of the traveling public. The structural portions of the bridge have not been fully repaired due to mitigating circumstances. With recent hurricane storm activities the bridge fender system suffered severe damage delaying the project further.

The need for this regulated navigation area (RNA) is further demonstrated by the recent actions of a tug and barge unit that failed to comply with the then existing RNA (68 FR 68518) on November 13, 2004. In violation of the RNA, the tug and barge attempted to pass under the bridge during a strong outgoing current and allided with the bridge. This allision demonstrates the need for the RNA to ensure the safety of vessels and vehicles transiting the area.

### Discussion of Rule

The regulated navigation area will encompass the main channel under the "A" span (basculer portion) of the Sanibel Island Causeway Bridge out to 100 feet on either side of the bridge inclusive of the main shipping channel. All vessels are required to transit the area at no-wake speed. However, nothing in this rule negates the requirement to operate at a safe speed as provided in the Navigation Rules and Regulations. A one-way traffic scheme is imposed within the regulated navigation area. Overtaking is prohibited. Tugs with barges must be arranged in a push-ahead configuration with barges made up in tandem. Tugs must be of adequate horsepower to fully maneuver the barges. Tug and barge traffic may transit the regulated navigation area at slack water only. Stern towing is prohibited except by assistance towing vessels, subject to certain conditions. Side towing is permitted. Assistance towing vessels may conduct stern tows when the disabled vessel being towed is less than or equal to 30 feet in length. For disabled vessels greater than 30 feet in length, assistance towing vessels may use a towing arrangement in which one assistance towing vessel is in the lead, towing the disabled vessel, and another assistance towing vessel is astern of the disabled vessel. Assistance towing vessels must be of adequate horsepower to maneuver the vessel under tow and may transit the RNA at slack water only. These regulations are going into effect to minimize the risk of potential bridge allisions by vessels utilizing the main channel under span "A" (basculer portion) of the Sanibel Island Causeway Bridge and enhance the safety of vessels transiting the area and vehicles crossing over the bridge.

### 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 (DHS). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The Coast Guard bases this finding on the following: Vessels may still transit the area, the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of the marine traffic that traditionally uses this waterway.

Additionally, the Coast Guard is soliciting comments to determine the impact on the boating public, and may make adjustments based on comments we receive.

### 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 will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit a portion of San Carlos Bay. This regulated navigation area will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels may still transit the area; the waterway is not a major commercial route, and the Coast Guard expects only modest delays due to the nature of the marine traffic that traditionally uses the waterway.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer 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 entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. 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

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. 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 does not create an environmental risk to health or risk to safety that may 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.

### 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, 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, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits in paragraph (34)(g) because it is a regulated navigation area. Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

### List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 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, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064 Department of Homeland Security Delegation No. 0170.1.

■ 2. Temporarily add new section 165.T07–146 to read as follows:

#### § 165.T07–146 Regulated Navigation Area, San Carlos Bay, Florida

(a) *Regulated Area.* The following area is a regulated navigation area (RNA): the waters bounded by the following points: NW Corner: 26°28'59" N, 082°00'54" W; NE Corner: 26°28'59" N, 082°00'52" W; SE Corner: 26°28'57" N, 082°00'51" W; SW Corner: 26°28'57" N, 082°00'53" W.

#### (b) *Regulations.*

(1) A vessel in the RNA established under paragraph (a) of this section will operate at no-wake speed. Nothing in this rule is to be construed as to negate the requirement to at all times operate at a safe speed as provided in the Navigation Rules and Regulations.

(2) A one-way traffic scheme is established. Vessel traffic may proceed in one direction at a time through the RNA. Overtaking is prohibited.

(3) Tugs with barges must be arranged in a push-ahead configuration with the barges made up in tandem. Tugs must be of adequate horsepower to maneuver

the barges. Tug and barge traffic may transit the RNA at slack water only.

(4) Stern tows are prohibited except for assistance towing vessels, subject to conditions. Side tows are authorized. Assistance towing vessels may conduct stern tows of disabled vessels that are less than or equal to 30 feet in length. For vessels that are greater than 30 feet in length, assistance towing vessels may use a towing arrangement in which one assistance towing vessel is in the lead, towing the disabled vessel, and another assistance towing vessel is astern of the disabled vessel. All assistance towing vessels operating within the regulated navigation area must be of adequate horsepower to maneuver the vessel under tow and the transit must be at slack water only.

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

*Assistance towing* means assistance provided to disabled vessels.

*Assistance towing vessels* means commercially registered or documented vessels that have been specially equipped to provide commercial services in the marine assistance industry.

*Disabled vessel* means a vessel, which while being operated, has been rendered incapable of proceeding under its own power and is in need of assistance.

*Overtaking* means a vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the stern light of the vessel but neither of her sidelights.

*Slack water* means the state of a tidal current when its speed is near zero, especially the moment when a reversing current changes direction and its speed is zero. The term also is applied to the entire period of low speed near the time of turning of the current when it is too weak to be of any practical importance in navigation.

*Vessel* means every description of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on the water.

(d) *Violations.* Persons in violation of these regulations will be subject to civil penalty under 33 U.S.C. 1232 of this part, to include a maximum civil penalty of \$32,500 per violation.

(e) *Effective period.* This section is effective from 11:59 p.m. on November 28, 2004, until 8 a.m. on November 28, 2005.

Dated: November 24, 2004.

**David B. Peterman,**

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

[FR Doc. 04-26748 Filed 12-3-04; 8:45 am]

**BILLING CODE 4910-15-P**

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[PA 2004-2]

### Inspection and Copying of Records

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This document makes a non-substantive, technical amendment to a Copyright Office regulation.

**DATES:** This rule is effective January 5, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Sandra L. Jones, Writer-Editor, or Marilyn J. Kretsinger, Associate General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** This rule makes a technical amendment to 37 CFR 201 to remove the hours of direct public use of computers intended to access the automated equivalent of portions of the in-process files in the Records Maintenance Unit of the Copyright Office. New hours of 9:00 a.m. to 4:30 p.m. are being implemented; but for administrative reasons, the Office decided not to include the time schedule as part of the regulation.

The reason for the change is current staff resources. A very small staff, working on a fixed schedule of 8:30 a.m. to 5:00 p.m., covers this public area. Reducing the hours of public access, gives the staff needed time at the beginning and end of the day to open up and close down the area for the public. The new hours will both provide the staff with the time necessary to complete these tasks without working beyond their normal duty schedule and afford the public a sufficient amount of time to use the files.

#### List of Subjects in 37 CFR Part 201

Copyright.

#### Final Rule

■ For the reasons set forth in the preamble, 37 CFR part 201 is amended as follows:

## PART 201—GENERAL PROVISIONS

■ 1. The authority citation for Part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702

■ 2. Section 201.2(b)(2) is amended by removing “8:30 a.m. to 5:00,”.

Dated: December 1, 2004

**Marilyn J. Kretsinger,**

*Associate General Counsel.*

[FR Doc. 04-26740 Filed 12-3-04; 8:45 am]

**BILLING CODE 1410-30-S**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket No. FEMA-7857]

### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

**EFFECTIVE DATES:** The effective date of each community's suspension is the third date (“Susp.”) listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:**

Michael M. Grimm, Mitigation Division, 500 C Street, SW., Room 412, Washington, DC 20472, (202) 646-2878.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new

construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since