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Joseph H. Grant,

Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-03-047]

Drawbridge Operation Regulations: Mystic River, CT

AGENCY: Coast Guard, DHS.

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 U.S. 1 Bridge, mile 2.8, across the Mystic River at Mystic, Connecticut. This temporary deviation replaces the temporary deviation published on June 2, 2003, and is necessary to test a new operating schedule to determine if a permanent change to the schedule is reasonable. The deviation published on June 2, 2003, is withdrawn.

DATES: The temporary deviation published on June 2, 2003, at 68 FR 32643 is withdrawn July 15, 2003. This temporary deviation is effective from July 18, 2003 through October 15, 2003. Comments must reach the Coast Guard on or before November 15, 2003.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA 02110-3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this deviation. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this evaluation of the test deviation by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this deviation (CGD01-03-047), 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 if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Background and Purpose

The U.S. 1 Bridge has a vertical clearance of 4 feet at mean high water and 7 feet at mean low water in the closed position.

The existing regulations in 33 CFR 117.211(b), require the bridge to open on signal with a maximum delay of up to twenty minutes; except that from May 1 through October 31, from 7:15 a.m. to 7:15 p.m., the draw need only open once an hour, at quarter past the hour and from November 1 through April 30, from 8 p.m. to 4 a.m., the draw must open on signal after a six-hour advance notice is given.

On May 13, 2003, the Mystic Connecticut Chamber of Commerce and Marine Affairs Committee, requested that the U.S. 1 Bridge opening schedule be temporarily changed to test an alternate operation schedule.

At the request of the Mystic Chamber of Commerce and Marine Affairs Committee, the Commander, First Coast Guard District, issued a temporary deviation from the drawbridge operation regulations on May 20, 2003. That temporary deviation, notice of which was published in the **Federal Register** on June 2, 2003, at 68 FR 32643, authorized an alternate operating schedule effective from June 15, 2003 through August 31, 2003. The purpose of the temporary deviation was to test an alternate operation schedule and collect vehicular traffic data.

On May 30, 2003, the Coast Guard received a second letter from the Mystic Chamber of Commerce and Marine Affairs Committee. The Mystic Chamber of Commerce and Marine Affairs Committee requested that the effective period of the temporary deviation be changed to allow the bridge to operate under the alternate operation schedule from July 18, 2003 through October 15,

2003, and that the hourly daily operating schedule end at 6:40 p.m. instead of 7:40 p.m.

The District Commander issued a new test deviation as requested by the Mystic Chamber of Commerce and Marine Affairs Committee. This deviation allows the bridge to operate under the alternate operation schedule from July 18, 2003 through October 15, 2003, during the peak boating season.

Under this temporary deviation, effective from July 18, 2003 through October 15, 2003, the draw of the U.S. 1 Bridge shall open promptly and fully on signal; except that, from 7:40 a.m. to 6:40 p.m., daily, the draw shall open at 7:40 a.m., 8:40 a.m., 9:40 a.m., 10:40 a.m., 11:40 a.m., 1:10 p.m., 1:40 p.m., 2:40 p.m., 3:40 p.m., 4:40 p.m., 5:40 p.m., and 6:40 p.m.

After October 15, 2003, the bridge will operate in accordance with the existing drawbridge operation regulations.

This temporary deviation also eliminates the provision that permits openings to be delayed up to 20 minutes after an opening request is given. Under this temporary deviation, the bridge must open promptly and fully upon request, in accordance with 33 CFR 117.5.

This deviation from the operating regulations is authorized under 33 CFR 117.43, to test an alternate operating schedule.

Dated: June 6, 2003.

John L. Grenier,

Captain, Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 03-17368 Filed 7-14-03; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-03-073]

RIN 1625-AA00

Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary security zone to include an area 800 yards south of the Cape Fear River Bridge encompassing Eagle Island, the Cape Fear River, and the grounds of the State Port Authority Terminal south to South Wilmington

Terminal. This action is necessary to provide security for and prevent acts of terrorist against vessels loading or offloading and the State Port Authority Terminal during a military operation. The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via Eagle Island, the Cape Fear River, or the North Carolina State Port Authority Terminal.

DATES: This rule is effective from 8 a.m. EST on June 13, 2003, to 11:59 p.m. EST on December 13, 2003. Comments are due on or before October 14, 2003.

ADDRESSES: Comments and documents indicated in this preamble as being available in the docket are part of docket CGD05-03-073 and will be available for inspection or copying at Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Diego Benavides, Port Security, (910) 772-2232.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments on this temporary rule to our docket listed under **ADDRESSES**. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-03-073), indicate the specific section of this document to which each comments applies, and give the reason for each comment. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and related material received during the comment period and we may change this temporary rule in view of them.

Regulatory Information

The U.S. Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation. The Coast Guard is promulgating these security zone regulations to protect the Wilmington State Port and the surrounding vicinity for reasons directly related to military operations and national security. Based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rulemaking and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation. As stated in our "Request for Comments" section, however, we do encourage you to comment on this currently-effective temporary rule. This temporary security

zone is necessary to provide for the security of the United States.

Background and Purpose

The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via Eagle Island, the Cape Fear River, or the North Carolina State Port Authority terminal.

Discussion of Rule

To provide security for, and prevent acts of terrorism against, vessels loading or offloading and the State Port Authority Terminal during a military operation, the security zone will prevent access to unauthorized persons who may attempt to enter the secure area via the Cape Fear River, the North Carolina State Port Authority terminal, or use Eagle Island as vantage point for surveillance of the secure area. This rule limits access to the regulated area to those vessels and persons authorized to enter and operate within the security zone. The Captain of the Port or her designated representative may authorize access to the security zone. Mariners must contact the control vessel on VHF-FM channel 16 to request access to transit through the regulated area. In addition, the Coast Guard will make notifications via maritime advisories.

Regulatory Evaluation

This proposed 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).

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) the COTP or her representative may authorize access to the security zone; (ii) the security zone will be in effect for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the U.S. Coast Guard have considered whether this proposed 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 will affect the following entities, some of which may be small entities: the owners and operators of vessels or vehicles intending to transit or anchor within waters or grounds of the security zone (including the North Carolina State Port Authority Terminal and the southern portion of Eagle Island) encompassed by a line connecting the following points: from South Wilmington Terminal at 34°10'38.394" W, 077°57'16.248" N (Point 1); across Cape Fear River to Southern most entrance of Brunswick River on the West Bank at 34°10'38.052" W, 077°57'43.143" N (Point 2); extending along the West bank of the Brunswick River for approximately 750 yards to 34°10'57.062" W, 077°58'01.342" N (Point 3); proceeding north across the Brunswick River to the east bank at 34°11'04.846" W, 077°58'02.861" N (Point 4); continuing north on the east bank for approximately 5000 yards along Eagle Island to 34°13'17.815" W, 077°58'30.671" N (Point 5), proceeding east to 34°13'19.488" W, 077°58'24.414" N (Point 6); then approximately 1700 yards to 34°13'27.169" W, 077°57'51.753" N (Point 7); proceeding east to 34°13'21.226" W, 077°57'19.264" N (Point 8); then across Cape Fear River to the northeast corner of the Colonial Terminal Pier at 34°13'18.724" W, 077°57'07.401" N (Point 9) 800 yards south of Cape Fear Memorial Bridge; proceeding south along shoreline (east bank) of Cape Fear River for approximately 500 yards; proceeding east inland to Wilmington State Port property line at 34°13'03.196" W, 077°56'52.211" N (Point 10); extending south along Wilmington State Port property line to 34°12'43.409" W, 077°56'50.815" N (Point 11); proceeding to the north entrance of Wilmington State Port at 34°12'28.854" W, 077°57'01.017" N (Point 12); proceeding south along Wilmington State Port property line to 34°12'20.819" W, 077°57'08.871" N (Point 13); continuing south along the Wilmington State Port property line to 34°12'08.164" W, 077°57'08.530" N (Point 14); continuing along State Port property to 34°11'44.426" W, 077°56'55.003" N (Point 15); proceeding south to the main gate of the Wilmington State Port at

34°11'29.578" W, 077°56'55.240" N (Point 16); proceeding south approximately 750 yards to the southeast property corner of the Apex facility at 34°11'10.936" W, 077°57'04.798" N (Point 17); proceeding west to east bank of Cape Fear River at 34°11'11.092" W, 077°57'17.146" N (Point 18); and proceeding south along East bank of Cape Fear River to original point of origin at 34°10'38.394" W, 077°57'16.248" N (Point 1).

This security zone is in effect from 8 a.m. EST on June 13, 2003, to 11:59 p.m. EST on December 13, 2003.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), the U.S. Coast Guard offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

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 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 would call 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. The U.S. Coast Guard has 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 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 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

The U.S. Coast Guard has 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 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 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.

Energy Effects

The U.S. Coast Guard has analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The U.S. Coast Guard has 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

The U.S. Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule establishes a 6-month security zone.

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—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; 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. Add § 165.T05-073 to read as follows:

§ 165.T05-073 Security Zone: Cape Fear River, Eagle Island and North Carolina State Port Authority Terminal, Wilmington, NC.

(a) *Location.* The following area is a security zone: All waters and grounds, including the North Carolina State Port Authority Terminal and the southern portion of Eagle Island, encompassed by a line connecting the following points: from South Wilmington Terminal at 34°10'38.394" W, 077°57'16.248" N (Point 1); across Cape Fear River to Southern most entrance of Brunswick River on the West Bank at 34°10'38.052" W, 077°57'43.143" N (Point 2); extending along the West bank of the Brunswick River for approximately 750 yards to 34°10'57.062" W, 077°58'01.342" N (Point 3); proceeding north across the Brunswick River to the east bank at 34°11'04.846" W, 077°58'02.861" N (Point 4); continuing north on the east bank for approximately 5000 yards along Eagle Island to 34°13'17.815" W, 077°58'30.671" N (Point 5), proceeding east to 34°13'19.488" W, 077°58'24.414" N (Point 6); then approximately 1700 yards to 34°13'27.169" W, 077°57'51.753" N (Point 7); proceeding east to 34°13'21.226" W, 077°57'19.264" N (Point 8); then across Cape Fear River to the northeast corner of the Colonial Terminal Pier at 34°13'18.724" W, 077°57'07.401" N (Point 9) 800 yards south of Cape Fear Memorial Bridge;

proceeding south along shoreline (east bank) of Cape Fear River for approximately 500 yards; proceeding east inland to Wilmington State Port property line at 34°13'03.196" W, 077°56'52.211" N (Point 10); extending south along Wilmington State Port property line to 34°12'43.409" W, 077°56'50.815" N (Point 11); proceeding to the north entrance of Wilmington State Port at 34°12'28.854" W, 077°57'01.017" N (Point 12); proceeding south along Wilmington State Port property line to 34°12'20.819" W, 077°57'08.871" N (Point 13); continuing south along the Wilmington State Port property line to 34°12'08.164" W, 077°57'08.530" N (Point 14); continuing along State Port property to 34°11'44.426" W, 077°56'55.003" N (Point 15); proceeding south to the main gate of the Wilmington State Port at 34°11'29.578" W, 077°56'55.240" N (Point 16); proceeding south approximately 750 yards to the southeast property corner of the Apex facility at 34°11'10.936" W, 077°57'04.798" N (Point 17); proceeding west to east bank of Cape Fear River at 34°11'11.092" W, 077°57'17.146" N (Point 18); and proceeding south along East bank of Cape Fear River to original point of origin at 34°10'38.394" W, 077°57'16.248" N (Point 1).

(b) *Captain of the Port*. For purposes of this section, *Captain of the Port* means the Commanding Officer of the Marine Safety Office Wilmington, NC, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on her behalf.

(c) *Regulations*. (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels requiring entry into or passage within the zone must first request authorization from the Captain of the Port or her designated representative. The Captain of the Port's representative enforcing the zone can be contacted on VHF marine band radio, channel 16. The Captain of the Port can be contacted at (910) 772-2200.

(3) The operator of any vessel within this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or her designated representative.

(ii) Proceed as directed by the Captain of the Port or her designated representative.

(d) *Effective period*. This section is effective from 8 a.m. EST on June 13, 2003, to 11:59 p.m. EST on December 13, 2003.

Dated: June 13, 2003.

Jane M. Hartley,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.

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BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-232]

RIN 1625-AA00

Safety Zone; Red Bull Wings Over Cleveland, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish two safety zones during the Red Bull Wings Over Cleveland in Lake Erie and the Port of Cleveland, Ohio. These safety zones are necessary to control vessel traffic within the immediate vicinity of both barges to protect competitors and course obstacles (wind blades and landing zone markers) from excessive speed and wakes, and to prevent interference with the competition. These safety zone are intended to restrict vessel traffic from a portion of Cleveland Harbor, Lake Erie.

DATES: This rule is effective from 7 a.m. on Thursday, July 31, 2003 through 9 p.m. on Saturday, August 2, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD09-03-232 and are available for inspection or copying at Coast Guard MSO Cleveland between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Allen Turner, Chief Port Operations Department, Coast Guard MSO Cleveland at (216) 937-0128.

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. This determination was based on the size and location of the safety zones within the waterways, and vessels can still transit around the safety zones. More importantly, publishing an NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule's effective date is contrary to public safety because

immediate action is necessary to protect the public, spectators and participants in the event.

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**.

Background and Purpose

Red Bull Wings Over Cleveland is an aerial paragliding and skydiving competition over Cleveland Harbor. Competitors will launch from either a barge moored approximately one mile off Voinovich Park in Lake Erie, or from an airplane, and attempt to land on another barge moored approximately 100 ft off Voinovich Park. A safety zone will be established around both barges to protect competitors and course obstacles (wind blades and landing zone markers) from excessive speed and wakes, and to prevent interference with the competition.

Discussion of Proposed Rule

The safety zones will be established from 7 a.m. on Thursday, July 31, 2003 until 9 p.m. on Saturday, August 2, 2003. The safety zones will be established around the two barges used for the competition. No vessel shall enter the safety zone without the permission of the COTP or the on-scene representative, the Patrol Commander.

Regulatory Evaluation

This 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 this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the size and location of the safety zones within the waterways.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant 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