

This conclusion is based on the fact that the only marine facility effected by this final rule has agreed to the closure dates for the bridge.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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

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 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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. 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.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

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

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

#### § 117.597 [Suspended]

2. From November 1, 2002 through May 10, 2003, § 117.597 is suspended.

3. From November 1, 2002 through May 10, 2003, § 117.T602 is temporarily added to read as follows:

#### § 117.T602 Dorchester Bay.

The draw of the William T. Morrissey Boulevard Bridge, mile 0.0, at Boston, need not open for the passage of vessel traffic.

Dated: October 17, 2002.

**V.S. Crea,**

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

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#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD01-02-117]

#### Drawbridge Operation Regulations: Hackensack River, NJ

**AGENCY:** Coast Guard, DOT.

**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 NJTRO HX Bridge, mile 7.7, across the Hackensack River at Secaucus, New Jersey.

This temporary deviation will allow the bridge to remain closed to navigation for four weekends beginning October 19, 2002, and ending on November 10, 2002. This temporary deviation is necessary to facilitate maintenance at the bridge.

**DATES:** This deviation is effective from October 19, 2002, through November 10, 2002.

**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The bridge owner, New Jersey Transit (NJTRO), requested a temporary deviation from the drawbridge operating regulations to facilitate necessary maintenance, replacement of the timber system, at the bridge. The installation of the timber system require the bridge to remain in the closed position.

Under this temporary deviation the NJTRO HX Bridge may remain closed to vessel traffic for four weekends; October 19 & 20, October 26 & 27, November 2 & 3, and November 9 & 10, 2002. The closures will be in effect from 6 a.m. on Saturday through 6 p.m. on Sunday for each of the above weekends. The bridge shall open in emergency situations in accordance with the provisions listed in 33 CFR 117.31(b).

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: October 18, 2002.

**V.S. Crea,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-02-523]

RIN 2115-AA97

#### **Security Zones; Captain of the Port Detroit Zone, Selfridge Air National Guard Base, Lake St. Clair**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing the permanent security zone on the navigable waters of Lake St. Clair around the Selfridge Air National Guard Base. This security zone is no longer necessary to protect the Selfridge Army National Guard Base from possible acts of terrorism. This security zone will no longer restrict vessel traffic from areas of Lake St. Clair in the vicinity of Selfridge Army National Guard Base.

**DATES:** This rule is effective on October 30, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09-02-523 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, 110 Mt.

Elliott Ave, Detroit, Michigan between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. The telephone number is (313) 568-9580.

**FOR FURTHER INFORMATION CONTACT:** LTJG Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, at (313) 568-9580.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On April 11, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; Captain of the Port Detroit Zone, Selfridge Army National Guard Base, Lake St. Clair" in the **Federal Register** (67 FR 17667). Following that on June 7, 2002, we published a final rule with the same title in the **Federal Register** (67 FR 39294). We also published a correction to the final rule with same title in the **Federal Register** updating the section numbers (67 FR 47299, July 18, 2002). We received no letters commenting on either the proposed, final, or correction to the final rule. No public hearing was requested, and none was held.

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, and, under 5 U.S.C. 553 (d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. In response to the terrorist's attacks on September 11, 2001, the Coast Guard implemented security zones around critical facilities throughout the U.S. One such facility was the Selfridge Army National Guard Base. This security zone was established at the request of Commander, Selfridge Air National Guard Base. Due to recent improvements and additions to base security, Commander, Selfridge Air National Guard Base has indicated that the security zone is no longer necessary. As such, the Coast Guard is removing this security zone and thereby reducing the restriction placed on the public of not having access to this portion of Lake St. Clair.

##### **Background and Purpose**

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, and significant damage to the Pentagon. National security and intelligence officials warn that future terrorists attacks are likely. To protect from such, we published a NPRM followed by a final rule to establish a permanent security zone off the waters of Selfridge

Army National Guard Base in Harrison Township, Michigan.

This security zone was believed to be necessary to ensure the protection of the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Detroit, or his authorized representative, were prohibited from entering or moving within this zone. In addition to publication in the **Federal Register**, the public was made aware of the existence of this security zone, exact location and the restrictions involved via the Broadcast Notice to Mariners.

Due to recent improvements and enhancements to base security at Selfridge Air National Guard base, the Commanding Officer of that base no longer believes the security zone is necessary. The security zone provided the necessary barrier while the base improved its security, but now that such improvements have been completed, adequate security can be provided by security personnel. As the request by the U.S. Army Garrison Commander was the primary factor for establishment of the security zone and this justification no longer exists, Captain of the Port Detroit is removing this security zone. The U.S. Army Garrison Commander concurs with the COTP decision.

##### **Discussion of Final Rule**

This final rule will remove the security zone from the waters of Lake St. Clair off Selfridge National Guard Base.

##### **Regulatory Evaluation**

This Final 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 exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

##### **Small Entities**

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