

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.507 during the Twelfth Annual Great Chesapeake Bay Swim Event to be held on June 8, 2003. This action is necessary to provide for the safety of life on navigable waters before, during and after the event. The effect will be to restrict general navigation in the regulated area for the safety of participants and support vessels in the event area.

EFFECTIVE DATES: 33 CFR 100.507 is effective from 11 a.m. to 3 p.m. local time on June 8, 2003.

FOR FURTHER INFORMATION CONTACT: Ron Houck, Marine Information Specialist, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226-1971, at (410) 576-2674.

SUPPLEMENTARY INFORMATION: The Great Chesapeake Bay Swim, Inc. will sponsor the "Great Chesapeake Bay Swim Event" on the waters of the Chesapeake Bay between and adjacent to the spans of the William P. Lane Jr. Memorial Bridge. Approximately 600 swimmers will start from Sandy Point State Park and swim between the spans of the William P. Lane Jr. Memorial Bridge to the Eastern Shore. A large fleet of support vessels will be accompanying the swimmers. Therefore, to ensure the safety of participants and support vessels, 33 CFR 100.507 will be in effect for the duration of the event. Under provisions of 33 CFR 100.507, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Vessel traffic will be allowed to transit the regulated area as the swim progresses, when the Patrol Commander determines it is safe to do so.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: May 13, 2003.

Ben R. Thomason III,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05-02-065]

RIN 1625-AA09

Drawbridge Operation Regulation; Raccoon Creek, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulations for the Consolidated Rail Corporation (CONRAIL) Railroad Bridge across Raccoon Creek at mile 2.0, in Bridgeport, New Jersey. This final rule for the CONRAIL Railroad Bridge eliminates the need for a bridge tender by allowing the bridge to be operated by a train crewmember. The final rule will provide for the reasonable needs of navigation.

DATES: This rule is effective June 19, 2003.

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 CGD05-02-065 and are available for inspection or copying at Commander (oan), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 6, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Raccoon Creek, New Jersey" in the **Federal Register** (68 FR 6100). We received one letter commenting on the proposed rule. No public hearing was requested nor held.

Background and Purpose

CONRAIL, who owns and operates this movable (swing-type) bridge, requested changes to the operating procedure for the drawbridge located at mile 2.0 across Raccoon Creek, in Bridgeport, New Jersey. Currently, Title 33 Code of Federal Regulations (CFR) Part 117.741 requires the bridge to open on signal from March 1 through November 30, from 7 a.m. to 11 p.m. At

all other times, the draw must open on signal if at least four hours notice is given. The draw must also open at all times as soon as possible for passage of a public vessel of the United States.

CONRAIL installed a new Programmable Logic Controller and associated mechanical, electrical and signal apparatus on the CONRAIL Railroad Bridge over Raccoon Creek in Bridgeport, New Jersey. This rule allows a radio-controlled system to operate the opening and closing of the swing span from the cab of the locomotive. From March 1 through November 30, the swing bridge will normally be left in the fully opened position displaying flashing green channel lights indicating that vessels may pass through. At all other times, the draw of the CONRAIL Railroad Bridge need only open on signal if at least four hours notice is given by calling (856) 231-2393.

Under this rule, when a train approaches the bridge it will stop and a train crewmember will observe the waterway for approaching craft, which will be allowed to pass. The train crewmember will then enter a prearranged code number using a radio keypad. The radio code will send a radio signal to the Programmable Logic Controller attached to the bridge, which will begin the process of closing the bridge. At that time, the bridge channel lights will change from flashing green to flashing red, a horn blast will sound four times, followed by a pause, then the four horn blasts will be repeated and the bridge will close. Once closed, the train will proceed across the bridge. After the train has cleared the swing span, which is approximately 300 feet from the bridge, the horn will automatically sound five times to indicate the span of the bridge is about to return to the full open position. Channel traffic lights would change from flashing green to flashing red any time the bridge is not in the full open position. In the full open position, the channel traffic lights will turn from flashing red to flashing green.

This rule will make the closure process of the CONRAIL Railroad Bridge more efficient during train crossings and periodic maintenance, and will save operational costs by eliminating bridge tenders while providing greater bridge operating capabilities.

Discussion of Comments and Change

The Coast Guard received one comment on the NPRM. The comment offered by the U.S. Fish and Wildlife Service (Service) indicated that the federally listed (threatened) bald eagle currently nests within 1.6 miles of the CONRAIL Railroad Bridge. The Service

states that bald eagles from the nearby nest site may occasionally forage or roost in the vicinity of the bridge. Based on the current available information, the Service does not anticipate adverse impacts to the bald eagle and does not object to the proposed changes in the operation of the CONRAIL Railroad Bridge. Therefore, no changes were made to the final rule.

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).

We reached this conclusion based on the fact that this final rule for the CONRAIL Railroad Bridge will provide for greater flow of vessel traffic than the current regulations for the drawbridge. Under the current regulations, the CONRAIL Railroad Bridge remains closed and opens after proper signal from March 1 through November 30. The final rule will require the bridge to remain in the open position during this period, permitting vessels to pass freely. The bridge will close only for train crossings and bridge maintenance. This final rule will provide for the reasonable needs of navigation.

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 final rule will not have a significant economic impact on a substantial number of small entities for the following reasons. The final rule will provide for the CONRAIL Railroad Bridge to remain in the open position from March 1 through November 30, allowing the free flow of vessel traffic. The bridge would only close for the passage of trains and maintenance.

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. In our notice of proposed rulemaking, we provided a point of contact to small entities who could answer questions concerning proposed provisions or option for compliance.

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 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 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. 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.ID, this rule is categorically excluded from further environmental documentation. The final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A “Categorical Exclusion Determination” is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed 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; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05–1(g); § 117.255 also issued under the authority of P.L. 102–587, 106 Stat. 5039.

■ 2. § 117.741 is revised to read as follows:

§ 117.741 Raccoon Creek.

(a) The draw of the Route 130 highway bridge, mile 1.8 at Bridgeport, shall open on signal:

(1) March 1 through November 30, from 7 a.m. to 11 p.m.

(2) At all other times, if at least four hours notice is given.

(b) The draw of the CONRAIL Railroad Bridge, mile 2.0 at Bridgeport, shall operate as follows:

(1) From March 1 through November 30, the draw shall be left in the open position at all times and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(i) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in § 117.31(b).

(ii) Before the bridge closes for any reason, a train crewmember will observe the waterway for approaching craft, which will be allowed to pass. A train crewmember will then operate the bridge by radiophone. The bridge shall only be closed if a train crewmember's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

(iii) While the CONRAIL Railroad Bridge is moving from the full open to the full closed position, a train crewmember will maintain constant surveillance of the navigational channel to ensure no conflict with maritime traffic exists. In the event of failure or obstruction, the train crewmember will stop the bridge and return the bridge to the open position.

(iv) The CONRAIL Railroad channel traffic lights will change from flashing green to flashing red anytime the bridge is not in the full open position.

(v) During closing of the span, the channel traffic lights will change from flashing green to flashing red, the horn will sound four times, followed by a pause, then the four blasts will be repeated and the bridge will close. When the rail traffic has cleared the swing span, the horn will automatically sound five times to signal the draw of the CONRAIL Railroad Bridge is about to return to its full open position.

(vi) During open span movement, the channel traffic lights will be flashing red, the horn will sound four times, followed by a pause, then four blasts will be repeated until the bridge is in the full open position. In the full open position, the channel traffic lights will then turn from flashing red to flashing green.

(2) At all other times, the draw may be left in the closed position and opened on signal if at least four hours

notice is given by telephone at (856) 231-2393.

Dated: April 29, 2003.

Sally Brice O'Hara,

Rear Admiral, Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-01-002]

RIN 1625-AA00

Safety Zone; Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during June 2003. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Detroit Zone.

DATES: Effective from 9 p.m. (Eastern Time) on June 23, 2003 to 11 p.m. (Eastern Time) on June 29, 2003.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Brandon Sullivan, U.S. Coast Guard Marine Safety Office, Detroit, MI at (313) 568-9580.

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zones in 33 CFR 165.907 (66 FR 27868, May 21, 2001), for fireworks displays in the Captain of the Port Detroit Zone during June 2003. The following safety zones are in effect for fireworks displays occurring in the month of June 2003:

(1) *Bay-Rama Fishfly Festival, New Baltimore, MI. Location.* All waters off New Baltimore City Park, Lake St. Clair-Ancor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41' N, 082°44' W (NAD 83).

Enforcement period. June 26, 2003, from 9 p.m. to 11 p.m.

(2) *St. Clair Shores Fireworks, St. Clair Shores, MI. Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32' N, 082°51' W, about 1000 yards

east of Veterans Memorial Park (off Masonic Rd.), St. Clair Shores, MI (NAD 83).

Enforcement period. June 27, 2003, from 10 p.m. to 11 p.m.

(3) *Port Huron 4th of July Fireworks, Port Huron, MI. Location.* All waters of the Black River within a 300 yard radius of the fireworks barge in approximate position 42°58' N, 082°25' W about 300 yards east of 223 Huron Ave., in the Black River (NAD 83).

Enforcement period. June 29, 2003, from 10 p.m. until 11 p.m.

(4) *Sigma Gamma Assoc., Grosse Pointe Farms, MI.*

Location. The waters off Ford's Cove, Lake St. Clair bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°27' N, 082°52' W (NAD 83).

Enforcement period. June 23, 2003 from 9 p.m. to 10 p.m.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be in effect for the duration of the events. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by case basis. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on channel 16, VHF-FM.

Dated: May 9, 2003.

Patrick G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-212]

RIN 1625-AA00

Safety Zone; Lake Michigan, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety for the Chicago to Michigan City sailboat race. The safety zone encompasses a portion of Lake Michigan. This safety zone is necessary to ensure vessel safety in the vicinity of the race start area, protecting both competitors and spectators from