

**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. Under this temporary deviation, effective from February 21, 2005 through March 31, 2005, the bridge shall open on signal on a fixed schedule at 8 a.m., 12 p.m., 4 p.m., and 8 p.m. From 8 p.m. to 8 a.m. the draw shall open on signal after at least a four-hour advance notice is given. This deviation is necessary in order to facilitate necessary repairs at the bridge.

**DATES:** This deviation is effective from February 21, 2005 through March 31, 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, Amtrak, requested a temporary deviation from the drawbridge operating regulations to facilitate structural repairs at the bridge.

This deviation to the operating regulations allows the Old Saybrook-Old Lyme Bridge to operate on a fixed opening schedule from February 21, 2005 through March 31, 2005. The bridge shall open only at 8 a.m., 12 p.m., 4 p.m., and 8 p.m. and from 8 p.m. through 8 a.m., the draw shall open on signal after at least a four-hour advance notice is given.

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: December 14, 2004.

**John L. Grenier,**

*Captain, U.S. Coast Guard, Acting  
Commander, First Coast Guard District.*

[FR Doc. 04-28553 Filed 12-29-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-04-152]

RIN 1625-AA11

#### Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard is re-establishing a temporary regulated navigation area (RNA) that was in effect from 6 December to 10 December, until 10 March 2005. The area of this RNA covers the entrance of East Rockaway Inlet to the Atlantic Beach Bridge, Nassau County, New York. This rule restricts the passage of commercial vessels carrying petroleum products with a loaded draft in excess of five feet. Significant shoaling in this area has reduced the depths of the navigable channel making the area unsafe for passage of vessels with drafts of greater than five feet carrying petroleum products as cargo. Operators of such vessels may request transit of the area on a trip-by-trip basis to the Captain of the Port, Long Island Sound, New Haven, Connecticut.

**DATES:** This rule is effective from 12:01 a.m. on December 11, 2004 until 11:59 p.m. on March 10, 2005. Comments must be received on or before January 10, 2005.

**ADDRESSES:** Comments should be mailed to the Waterways Management Officer, Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Ave., New Haven, CT 06512. Comments received, along with documents indicated in this preamble as being available in the docket, are part of docket CGD01-04-152 and will be available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, at the address above, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant A. Logman, Waterways Management Officer, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468-4429.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments and Public Meeting

Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-04-152), the specific section of this rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½" x 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period, and may modify this temporary final rule in light of comments received. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Waterways Management Officer, Group/Marine Safety Office Long Island Sound at the address listed under **ADDRESSES** above. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

In accordance with 5 U.S.C. 553(d)(3) good cause exists for publishing a temporary final rule without a prior comment period. Due to the immediate need for the protection of the maritime public, it is impracticable to publish a NPRM in advance. Delaying this rule to provide for a notice and comment period would be impracticable, unnecessary and contrary to the public interest. Any delay in implementing this rule would be contrary to public interest as immediate action is needed to prevent vessels, carrying petroleum products as cargo with a loaded draft of greater than five feet, from transiting the area so as to avoid the potential hazards associated with a grounding of a vessel carrying petroleum products as cargo.

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the immediate need for the protection of the maritime public, it is impracticable to publish a NPRM in

advance. Thus, 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**. Any delay in implementing this rule would be contrary to public interest as immediate action is needed to prevent vessels, carrying petroleum products as cargo with a loaded draft of greater than five feet, from transiting the area so as to avoid the potential hazards associated with a grounding of a vessel carrying petroleum products as cargo.

On December 3, 2004, the M/V KRISTIN POLING, a small coastal tanker, ran aground at high tide south of East Rockaway Inlet, Nassau County, New York. East Rockaway Inlet has experienced significant shoaling causing the channel to migrate towards the west. The shoaling in this area has reduced depths to a point where transit for vessels drawing greater than five feet presents a danger of grounding. The delay inherent in the NPRM process is contrary to the public interest and impracticable, as immediate action is needed to minimize the potential danger posed by the possibility of further groundings of tankers and the potential resultant oil spills in and around this regulated navigation area.

On 4 December 2004, the First Coast Guard District Commander implemented a temporary RNA (CGD01-04-150), effective from 6 p.m. on December 4, 2004 to 11:59 p.m. on December 10, 2004. Since the establishment of that area, we have determined that the continued application of these restrictions is prudent to protect the maritime public.

#### Background and Purpose

On Friday December 3, 2004, the M/V KRISTIN POLING, a small coastal tanker carrying approximately 18,000 barrels of home heating oil, ran aground at high tide south of East Rockaway Inlet, approximately ¼ mile west of Silver Point at the end of Atlantic Beach. This grounding presented the potential for a major oil spill. The M/V KRISTIN POLING was en route to Sprague Energy Oceanside terminal, a home heating oil distributor located in Oceanside, Long Island, New York, a major supplier of home heating oil for western Long Island. The M/V KRISTIN POLING conducted lightering operations on scene until the vessel was re-floated. No product was discharged into the water as a result of this grounding. East Rockaway Inlet has experienced significant shoaling causing the channel to shift towards the west. The shoaling in this area has reduced depths to a point where transit for

vessels drawing greater than five feet presents a danger of grounding, and the potential for a significant oil spill. East Rockaway Inlet is scheduled to be dredged by contractors for the U.S. Army Corps of Engineers beginning December 11, 2004. Once completed, vessels will be able to safely transit the inlet. Although the dredge project is expected to require 45 days to complete, delays can be expected due to inclement weather, warranting a longer effective period for this rulemaking to ensure adequate protections for the marine community and environment for the entire dredging period. Once the dredge project is complete, the RNA established herein will be cancelled.

#### Discussion of Rule

This rule will provide for the safety of vessel traffic in and around East Rockaway Inlet, Long Island, New York. This regulation establishes a temporary RNA on the navigable waters of the East Rockaway Inlet in an area bounded by lines drawn from the approximate position of the Silver Point breakwater buoy (LLN 31500) at 40°34' 56" N, 073°45' 19" W, running north to a point of land on the northwest side of the inlet at position 40°35' 28" N, 073°46' 12" W, thence easterly along the shore to the east side of the Atlantic Beach Bridge, State Route 878, over East Rockaway Inlet, thence across said bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning. This rule prohibits the transit of vessels carrying petroleum products as cargo with a loaded draft greater than five feet through the regulated navigation area. Operators of such vessels wishing to transit the regulated navigation area may submit a request to the Captain of the Port, Long Island Sound on a trip-by-trip basis. The request must include the proposed under-keel-clearance, taking into account the predicted tide. This RNA is in effect from 12:01 a.m. on December 11, 2004 until 11:59 p.m. on March 10, 2005.

Any violation of the regulated navigation area described herein, is punishable by, among others, civil and criminal penalties, *in rem* liability against the offending vessel, and license sanctions.

The Captain of the Port Long Island Sound will notify the maritime community of the periods during which the regulated navigation area will be enforced. Broadcast notifications will be made to the maritime community advising them of the boundaries of the regulated navigation area.

#### 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 expect the economic impact of this rule will be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: The RNA limits only vessels carrying petroleum products as cargo with a loaded draft of greater than five feet; operators of vessels with a loaded draft of greater than five feet may request permission to transit the regulated navigation area from the Captain of the Port, Long Island Sound. COTP Long Island Sound is working with the U.S. Army Corps of Engineers to have an accurate survey of East Rockaway Inlet conducted to determine whether there is adequate water for vessels to transit this inlet prior to dredging being completed. This survey will enable the COTP to quickly and appropriately assess requests to transit East Rockaway Inlet for the effective period of this RNA. Recreational and other maritime traffic is not prohibited from transiting this area.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will 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 may be small entities: the owners or operators of vessels carrying petroleum products intending to transit or anchor in those portions of the East Rockaway Inlet covered by the regulated navigation area; and Sprague Energy Oceanside, located in Oceanside, Long Island, New

York, a supplier of home heating oil, and Keyspan E.S. Barrett, an electrical power generation facility, located in Island Park, Long Island, New York, which receive the vessels affected by this regulated navigation area. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

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 economically affect it.

#### Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants 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 this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant A. Logman, Waterways Management Officer, Group/Marine Safety Office Long Island Sound, at (203) 468–4429.

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 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 will not concern 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 will 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. 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

The Coast Guard 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. A Categorical Exclusion Determination is available in the docket where indicated under **ADDRESSES**.

#### 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; 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. From 12:01 a.m. on December 11, 2004 until 11:59 p.m. on March 10, 2004, add temporary § 165.T01–152 to read as follows:

**§ 165.T01–152 Regulated Navigation Area, East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, New York**

(a) *Location.* The following area is established as a Regulated Navigation Area: All waters of East Rockaway Inlet in an area bounded by lines drawn from the approximate position of the Silver Point breakwater buoy (LLN 31500) at 40°34'56" N, 073°45'19" W, running north to a point of land on the northwest side of the inlet at position 40°35'28" N, 073°46'12" W, thence easterly along the shore to the east side of the Atlantic Beach Bridge, State Route 878, over East Rockaway Inlet, thence across the bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning.

(b) *Regulations.* (1) Vessels carrying petroleum products as cargo, with a loaded draft greater than five feet, are prohibited from transiting within the regulated navigation area.

(2) Operators of vessels carrying petroleum products as cargo with a loaded draft greater than five feet may submit a request to transit the regulated navigation area, on a trip-by trip basis, to the Captain of the Port, Long Island Sound. The request must include the proposed under keel clearance for the transit, taking into account the predicted tide.

(c) *Effective period.* This temporary final rule is effective from 12:01 a.m. on December 11, 2004 until 11:59 p.m. on March 10, 2004.

Dated: December 10, 2004.

**David P. Pecoske,**

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

[FR Doc. 04–28549 Filed 12–29–04; 8:45 am]

BILLING CODE 4910–15–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD09–04–149]

RIN 1625–AA00

**Safety Zone; Chicago River Main Branch, Chicago, IL**

AGENCY: Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the demolition of the Chicago Sun-Times Building. This safety zone is necessary to protect vessels and persons from potential falling debris during the demolition phase of the Chicago Sun-Times Building along the Chicago River Main Branch, Chicago, Illinois.

**DATES:** This rule is effective from December 20, 2004 through March 19, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–04–149] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60527, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Cameron Land, U.S. Coast Guard Marine Safety Office Chicago, at (630) 986–2155.

**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. Notification of this event and the permit application was not received in time to publish an NPRM followed by a final rule before the effective date. 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**. Delaying this rule would be contrary to the public interest of ensuring the safety of persons and vessels during this event and immediate action is necessary to prevent possible loss of life or property. During the enforcement of this safety zone, comments will be accepted and reviewed and may result in a modification to the rule.

**Background and Purpose**

This temporary safety zone is necessary to ensure the safety of vessels and persons during the planned demolition of the Chicago Sun-Times Building. During the demolition phase, it is possible for falling debris to fall into the Chicago River. The Captain of the Port Chicago has determined that demolition in close proximity of the waterway may pose a significant risk and hazard to persons and vessels.

Establishing a safety zone to control vessel movement around the location of the Chicago Sun-Times Building will help ensure the safety and reduce the risks of persons and vessels during the demolition phase.

**Discussion of Rule**

The safety zone will be established on the north side of the Chicago River Main Branch, from the east side of the Wabash Ave Bridge at position 41°53.296' N and 087°37.611' W extending 515 feet along the shoreline to the east side of the Chicago Sun-Times Building, at position 41°53.347' N and 087°37.539' W extending 40 feet perpendicular to the shoreline to position 41°53.342' N and 087°37.534' W extending parallel to the shoreline to position 41°53.290' N and 087°37.607' W then back to the point of origin.

All persons shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago, or his designated on scene representative.

**Regulatory Information**

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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this 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 consideration that the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones’ activation.

**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 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.