DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–04–155]

RIN 1625–AA00

Safety Zone; Wantagh Parkway 3 Bridge Over the Sloop Channel, Town of Hempstead, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters surrounding the Wantagh Parkway Number 3 Bridge across the Sloop Channel in Town of Hempstead, New York. This zone is necessary to protect vessels transiting in the area from hazards imposed by construction barges and equipment. The barges and equipment are being utilized to construct a new bascule bridge over the Sloop Channel. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, Connecticut.

DATES: This rule is effective from 12:01 a.m. on January 1, 2005 until 11:59 p.m. on May 31, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–04–155 and will be available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, 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:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Any delay encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is needed to restrict and control maritime traffic transiting in the vicinity of the Sloop Channel under the Wantagh Parkway Number 3 Bridge in the Town of Hempstead, Nassau County, Long Island, New York.

In 2003, the Coast Guard approved bridge construction and issued a permit for bridge construction for the Wantagh Parkway Number 3 Bridge over the Sloop Channel. Contractors began work constructing the two bascule piers for the new bridge in early June 2004. A safety zone was not deemed necessary at the inception of the construction, as this channel is primarily used by smaller recreational vessels, which could maneuver outside of the channel. However, bridge construction equipment remains under the Wantagh Parkway Number 3 Bridge poses a potential hazard greater than originally anticipated. A safety zone was deemed necessary and was established on October 9, 2004 through December 31, 2004, the date when construction impacting the navigable channel was estimated to be complete.

On December 14, 2004 the New York State Department of Transportation advised the Coast Guard that construction of the Wantagh Parkway was experiencing delays, requiring equipment to be in the channel in a manner that would leave the waterway unsafe to marine traffic until May 31, 2005. The delay inherent in the NPRM process is contrary to the public interest and impracticable, as immediate action is needed to extend this safety zone to continue to prevent accidents by vessels transiting the area with the construction equipment.

Background and Purpose

Currently, there is a fixed bridge over the Wantagh Parkway Number 3 Bridge over the Sloop Channel in the Town of Hempstead, New York. New York Department of Transportation determined that a moveable bridge would benefit the boating community. In 2003, the Coast Guard approved bridge construction and issued a permit for bridge construction for the Wantagh Parkway Number 3 Bridge over the Sloop Channel. Contractors began work constructing the two-bascule piers for the new bridge in early June 2004. The equipment necessary for the construction of the bridge occupies the entire navigable channel. While there are side channels, which can be navigated, the equipment in the channel is extensive and poses a hazard to recreational vessels attempting to transit the waterway via the side channels under the bridge. Construction, requiring equipment in the navigable channel, was originally scheduled to end on December 31, 2004. Delays in construction require this equipment to occupy the navigable channel until May 31, 2005. To ensure the continued safety of the boating community, the Coast Guard is establishing a safety zone in all waters of the Sloop Channel within 300 yards of the bridge. This safety zone is necessary to protect the safety of the boating community who wish to utilize the Sloop Channel. Marine traffic may transit safely outside of the safety zone during the effective dates of the safety zone, allowing navigation in the Sloop Channel, except the portion delineated by this rule.

Discussion of Rule

This regulation establishes a temporary safety zone on the waters of the Sloop Channel within 300-yards of the Wantagh Parkway Bridge. This action is intended to prohibit vessel traffic in a portion of the Sloop Channel in the Town of Hempstead, New York to provide for the safety of the boating community due to the hazards posed by significant construction equipment located in the waterway for the construction of a new bascule bridge. The safety zone is in effect from 12:01 a.m. on January 1, 2005 until 11:59 p.m. on May 31, 2005. Marine traffic may transit safely outside of the safety zone during the effective dates of the safety zone, allowing navigation in the Sloop Channel, except the portion delineated by this rule. Vessels may utilize the Goose Neck Channel in order to transit to those areas accessible by Sloop Channel. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

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

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: vessels may transit in all areas of the Sloop Channel and other than the area of the safety zone, and may utilize other routes with minimal increased transit time.

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 intending to transit or anchor in those portions of the Sloop Channel in the Town of Hempstead, New York covered by the safety zone. 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. 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 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 January 1, 2005 to 11:59 p.m. on May 31, 2005 add temporary § 165.T01–155 to read as follows:

§ 165.T01–155 Safety Zone: Wantagh Parkway Number 3 Bridge over the Sloop Channel, Town of Hempstead, NY.

(a) *Location.* The following area is a safety zone: All waters of the Sloop Channel in Hempstead, NY within 300-yards of the Wantagh Parkway Number 3 Bridge over the Sloop Channel.

(b) *Effective date.* This rule is effective from 12:01 a.m. on January 1, 2005 until 11:59 p.m. on May 31, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound.

(3) All persons and vessels shall comply with the instructions of the COTP, or the designated on-scene U.S. Coast Guard representative. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels.

Dated: December 30, 2004.

John J. Plunkett,

Commander, U.S. Coast Guard, Acting Captain of the Port, Long Island Sound.

[FR Doc. 05–535 Filed 1–11–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–04–046]

RIN 1625–AA87

Security Zone; Protection of Military Cargo, Captain of the Port Zone, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard Captain of the Port Puget Sound published in the **Federal Register** of December 10, 2004, a final rule concerning security zones for the protection of military cargo loading and unloading operations in the navigable waters of Puget Sound. Wording in § 165.1321(c)(3) is being corrected to fix a typographical error in the longitude of the first point listed in the security zone. This document makes this correction.

DATES: This rule is effective January 12, 2005.

FOR FURTHER INFORMATION CONTACT: LTJG T. Thayer, c/o Captain of the Port, Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217–6232.

SUPPLEMENTARY INFORMATION: The Coast Guard published a document in the **Federal Register** on December 10, 2004 (69 FR 71709), which amended 33 CFR 165.1321 by adding Budd Inlet, Olympia, WA as a permanent security zone. In this document, paragraph (c)(3) of the regulatory text contained a typographical error in the longitude of the first point listed in the security zone. The existing, accompanying description of this point as ''approximately the northwestern end of the fence line enclosing Berth 1 at Port of Olympia'' is correct. This correction merely amends the erroneous longitude coordinate in the regulatory text.

■ In rule FR Doc. 04–27213 published on December 10, 2004 (69 FR 71709), make the following correction.

§ 165.1317 [Amended]

■ On page 71711, starting on the fifth line in paragraph (c)(3), remove the phrase ''47°03′12″ N, 122°25′21″ W'' and add, in its place, the phrase ''47°03′12″ N, 122°54′21″ W''.

Dated: December 29, 2004.

Danny Ellis,

Captain, U. S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 05–546 Filed 1–11–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Diego 04–019]

RIN 1625–AA87

Security Zone; San Diego Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is expanding the geographical boundaries of the permanent security zone at Naval Base San Diego. This action is required to provide adequate area for the U.S. Navy to install an upgraded barrier system and provide the minimum required separation distances between the barrier and protected assets at Naval Station San Diego. The revised security zone will run adjacent to the navigation channel between Piers 14 and Pier 5. From the edge of the navigation channel west of Pier 5, the proposed security zone extends to a point 400 feet opposite of Pier 1. The existing security zone at Naval Station San Diego, implemented on April 15, 2003, does not provide adequate separation distance between protected vessels and the proposed barrier system.

DATES: This rule is effective February 11, 2005.

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 SD 04–019 and are available for inspection or copying between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MSTC Todd Taylor at (619) 683–6434.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 13, 2004, we published a notice of proposed rulemaking (NPRM) entitled ''Security Zone; San Diego Bay'' in the **Federal Register** (69 FR 55122). We received two letters and one e-mail commenting on the proposed rule. No public meeting was requested, and none was held. However, the proposal was raised as a point of discussion during a previously scheduled San Diego Harbor Safety Committee meeting in October 2004. The U.S. Navy and U.S. Coast Guard participated in several meetings with the San Diego Bay Pilots Association to discuss the impact of this revised security zone and the installment of a permanent barrier system.