

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

Bridges.

■ For 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 authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. § 117.243 is revised to read as follows:

**§ 117.243 Nanticoke River.**

The draw of the Norfolk Southern Railway Bridge across the Nanticoke River, at mile 39.4, at Seaford, Delaware will operate as follows:

(a) From March 15 through November 15 the draw will open on signal for all vessels except that, from 11 p.m. to 5 a.m. at least 2½ hours notice will be required.

(b) At all times from November 16 through March 14 the draw will open on signal if at least 2½ hours notice is given.

(c) When notice is required, the owner operator of the vessel must provide the bridge tender with an estimated time of passage by calling 717–541–2151/2140.

Dated: March 31, 2003.

**James D. Hull,**

*Vice Admiral, U. S. Coast Guard,  
Commander, Fifth Coast Guard District.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD01–03–017]

**RIN 1625–AA11**

**Regulated Navigation Area; Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard is amending a Regulated Navigation Area (RNA) to add restrictions on vessels transiting the Bergen Point West Reach of the Kill Van

Kull during U.S. Army Corps of Engineers dredging operations in that area. This action is necessary to provide for the safety of life and property on navigable waters during dredging operations that impinge upon the navigable portion of the channel and require the temporary relocation of navigational aids. This action is intended to reduce the risks of collisions, groundings and other navigational mishaps.

**DATES:** This rule is effective from March 30, 2003 to September 30, 2004.

Comments and related material must reach the Coast Guard on or before June 9, 2003.

**ADDRESSES:** The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. 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 CGD01–03–017 and are available for inspection or copying at Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, room 203, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander F. Fiumano, Vessel Traffic Service, Coast Guard Activities New York at (718) 354–4191.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–03–017), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material to the Coast Guard at the address under **ADDRESSES**. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Coast Guard, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the

Coast Guard finds that good cause exists for not publishing an NPRM. The U.S. Army Corps of Engineers is conducting an extensive navigation improvement project in Kill Van Kull and Newark Bay, New York and New Jersey. The project, which is being conducted in nine distinct phases, began in April 1999 and will continue through approximately April 2005. In anticipation of the project and its probable impact on navigation, the Coast Guard worked with local pilots and maritime users to develop restrictions on vessels transiting the area during dredging operations. As a result of that cooperative process, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (63 FR 72219) on December 31, 1998, discussing our intention to establish a Regulated Navigation Area (RNA) for Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey. We received no letters commenting on the proposed rule. No public hearing was requested and none was held. On April 15, 1999, we published a Final Rule in the **Federal Register** (64 FR 18577) codifying the RNA at 33 CFR 165.165.

Once dredging operations began in the Bergen Point portion of the navigation improvement project, it has become evident that the provisions of the original RNA were insufficient to ensure safe navigation on that portion of the waterway. On May 16, 2002, Kill Van Kull Channel Lighted Buoys 10 and 12 (LLNR 37300 and 37310) and Bergen Point Lighted Buoy 14 (LLNR 37325) had to be relocated to facilitate dredging of the Kill Van Kull. Once those buoys were relocated, the Bergen Point Buoy was hit and moved off-station requiring Coast Guard assets to be diverted from other safety and security missions in the Port of New York and New Jersey to re-establish the buoy on-station. More importantly, other vessels were unable to navigate successfully within the temporary channel boundaries. More than half of the vessels over 700 feet long transiting the area were unable to safely navigate the narrow southern channel during periods of high current and moderate winds. And there were several near collisions between tugs and barges operating in the area. We determined that a significant risk of similar mishaps existed unless additional regulations were prescribed for vessels operating in the vicinity of Bergen Point while continued dredging