

From Friday, 4 p.m. through Monday, 6:30 a.m. the bridge shall open on signal after at least a two-hour advance notice is given.

At all other times the bridge need not open for marine traffic.

Advance notice may be given by calling (631) 383-6598.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 10, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E9-9636 Filed 4-27-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG-2009-0223]

Drawbridge Operation Regulations; Gowanus Canal, Brooklyn, NY, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Hamilton Avenue Bridge across the Gowanus Canal, mile 1.2, at Brooklyn, New York. Under this temporary deviation the bridge shall require a four-hour advance notice for bridge openings for three months and a three day bridge closure to facilitate bridge maintenance. Vessels that can pass under the draw without a bridge opening may do so at all times.

DATES: This deviation is effective from 6 a.m. on April 21, 2009 through 11:59 p.m. on July 31, 2009.

ADDRESSES: and are available online at www.regulations.gov, selecting the Advanced Docket Search Option on the right side of the screen, inserting USCG-2009-0223 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Judy Leung-Yee, Project Officer, First Coast Guard District, telephone 212-668-7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: The Hamilton Avenue Bridge, across the Gowanus Canal, mile 1.2, at Brooklyn, New York, has a vertical clearance in the closed position of 19 feet at mean high water and 23 feet at mean low water. The Drawbridge Operation Regulations are listed at 33 CFR 117.5. The waterway has seasonal recreational vessels, and commercial vessels of various sizes. The owner of the bridge, New York City Department of Transportation, requested a temporary deviation to facilitate the training of bridge personnel, mechanical and electrical testing at the bridge.

Under this temporary deviation the Hamilton Avenue Bridge shall require at least a four-hour advance notice for bridge openings from April 24, 2009 through July 31, 2009. In addition a three day bridge closure will be necessary from 6 a.m. on April 21, 2009 through 8 p.m. on April 23, 2009, to facilitate bridge railing installation.

Vessels that can pass under the bridge without a bridge opening may do so at all times. Notice may be provided by calling (201) 400-5243.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 10, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E9-9637 Filed 4-27-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 160

[Docket No. USCG-2007-28648]

RIN 1625-AB19

Crewmember Identification Documents

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard requires each crewmember on a foreign commercial vessel en route to a U.S.

port or place of destination or at a U.S. port or place, or on a U.S. commercial vessel coming from a foreign port or place of departure to a U.S. port or place of destination, to carry and present upon demand an acceptable identification when in U.S. navigable waters. The vessel operators are required to ensure that crewmembers comply with this requirement. This rule would implement a Maritime Transportation Security Act mandate and help ensure that the Coast Guard can authoritatively identify crewmembers on vessels in U.S. navigable waters.

DATES: This final rule is effective May 28, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2007-28648 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2007-28648 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Commander Kelly Post, Coast Guard, telephone 202-372-1405 and e-mail address Kelly.M.Post@uscg.mil, or Lieutenant Commander Jonathan H. Maiorine, U.S. Coast Guard Office of Port and Facility Activities, telephone 202-372-1133 and e-mail address Jonathan.H.Maiorine@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

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I. Abbreviations

- CBP U.S. Customs and Border Protection
- CFR Code of Federal Regulations
- FR Federal Register
- ILO International Labour Organization
- INA Immigration and Nationality Act
- MMC Merchant Mariner Credential
- MMD Merchant Mariner Document
- MODU Mobile Offshore Drilling Unit
- MTSA Maritime Transportation Security Act
- OCS Outer Continental Shelf
- OMB Office of Management and Budget
- PWSA Ports and Waterways Safety Act
- SID Seafarer's Identification Document
- TSA Transportation Security Administration
- TWIC Transportation Worker Identification Credential
- U.S.C. United States Code

II. Regulatory History

On May 14, 2008, we published a notice of proposed rulemaking entitled "Crewmember Identification Documents" in the **Federal Register** (73 FR 27778). We received 8 letters containing 27 comments on the proposed rule. No public meeting was requested and none was held.

III. Background and Purpose

In section 102 of the Maritime Transportation Security Act of 2002 (MTSA), Public Law 107-295, 116 Stat. 2064, 2080-81 (November 25, 2002), codified at 46 U.S.C. 70111, Congress directed the Secretary of the Department in which the Coast Guard is operating to require all crewmembers on vessels calling at U.S. ports to carry and present on demand any identification the Secretary decides is necessary. Section

102 also directed the Secretary to develop forms and processes for the identification and verification of crewmembers. In section 103 of the MTSA, Congress indicated the objective of requiring crewmember identification is to be able to establish authoritatively, the identity of any seafarer aboard a vessel within U.S. jurisdiction, including U.S. territorial seas. 116 Stat. 2084, and 46 U.S.C. 70111, note.

Congress directed the Secretary to consult with the Attorney General and Secretary of State when developing these crewmember identification requirements. 46 U.S.C. 70111. The Secretary of the Department of Homeland Security (DHS) delegated this rulemaking authority to the Commandant of the Coast Guard and directed the Commandant to develop these requirements in cooperation with U.S. Customs and Border Protection (CBP) and the Transportation Security Administration (TSA). Section 2 (97)(g) of DHS Delegation No. 0170.1, Delegation to the Commandant of the U.S. Coast Guard. A copy of this delegation is available in the docket. Accordingly, the Coast Guard collaborated with CBP and TSA and consulted with the Attorney General and Secretary of State in the development of this rule.

On October 13, 2006, Congress revised 46 U.S.C. 70111 through section 110 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109-347 120 Stat. 1891, 1893 (October 13, 2006) and established a deadline for these requirements to be in place not later than October 13, 2007. This rule fulfills Congress' mandate to require that crewmembers on vessels calling at U.S. ports or places of destination carry and present on demand identification the Secretary decides is necessary.

In the preamble of the NPRM, we noted that if an effective rule were issued in the "Consolidation of Merchant Mariner Qualification Credentials" (RIN 1625-AB02) rulemaking before we issued this crewmember identification final rule, we would add the Merchant Mariner Credential (MMC) to the list of acceptable identification documents in 33 CFR 160.310. See May 14, 2008, 73 FR 27780. On March 16, 2009, a final rule from the MMC rulemaking was published (74 FR 11196), so we have added the MMC as an acceptable identification in this final rule. The MMC rule is effective April 15, 2009.

IV. Discussion of Comments and Changes

We received 27 comments regarding the proposed rule. The following is a summary of the comments received, and the changes made to the regulatory text since our proposed rule was published.

A. Support for Proposed Rule

Six commenters made statements that were generally supportive of the proposed rule and Coast Guard's efforts to positively identify crewmembers aboard commercial vessels in U.S. waters. In addition, one of these comments included appreciation that the NPRM did not propose to create an undue burden on mariners and that an acceptable identification, along with the appropriate entrance documents (such as a visa and passport), will facilitate shore-leave for mariners.

The Coast Guard agrees. Our objectives in drafting these regulations are to implement statutory requirements in 46 U.S.C. 70111, and to do so in a way consistent with the DHS goal of enhancing security while minimizing the burden upon the maritime industry to the maximum extent possible. We agree that possession of an acceptable identification will enable authoritative identification of crewmembers while in U.S. waters. We remind mariners that compliance with the requirements in this rule, however, does not relieve vessel crewmembers and operators of any requirements under the Immigration and Nationality Act (INA) or INA implementing regulations. We have made no changes from the proposed rule based on these comments.

B. Acceptance of Seafarer's Identification Document

One commenter stated that listing the Seafarer's Identification Document (SID) as an acceptable form of identification appears to create inconsistency in U.S. policy since the United States is not a signatory to the International Labour Organization Convention (ILO) number 185. Another commenter stated that if the SID permits the authoritative identification of a crewmember, then it should suffice for shore leave without a visa.

The Coast Guard disagrees. The United States' position against ratification of the ILO 185 convention is primarily based on the convention's current requirement that all SID holders be granted entry without a visa. This does not mean, however, that the Coast Guard finds no value in or has no appreciation for international crewmember identification, issued by signatory governments, to assist us in

authoritatively identifying crewmembers while in U.S. waters. We have made no changes from the proposed rule based on these comments.

C. Transportation Worker Identification Credential not SID Compliant

Three commenters also expressed concern that because the Transportation Worker Identification Credential (TWIC) is not SID compliant, U.S. mariners may be denied shore-leave while calling on foreign ports whose countries are signatory to the ILO 185 convention in response to foreign mariners with SIDs being denied shore leave while in the United States. In addition, one commenter stated the Coast Guard continues to refuse to take the necessary steps to facilitate shore-leave and this problem must be addressed or mariners will increasingly find themselves held prisoners on their vessel while in port.

The commenters are correct regarding TWIC. It is not ILO 185 SID compliant. We expect that U.S. mariners, while calling on foreign ports of countries either signatory or non-signatory to ILO 185, will continue to be eligible for shore leave based on compliance with the host country's immigration laws, regulations, and policy as they pertain to seafarers. Under the ILO 185 convention, signatory countries agree to permit shore leave to SID-holding mariners without a visa, with some exceptions. Nowhere does the convention state that signatory countries should deny shore leave to mariners without a SID. The United States' position on shore leave for foreign mariners, with or without a SID, remains that it should be facilitated to the maximum extent possible while complying with the applicable requirements under our INA and INA implementing regulations. We have made no changes from the proposed rule based on these comments.

D. Interoperability of Identification Credentials

Four commenters expressed concern that the proposed rule does not enhance interoperability between U.S. and international identification credentials for crewmembers and creates economic disadvantages and security risks by not mandating background checks for foreign crewmembers, similar to those required of U.S. mariners who must obtain a TWIC.

This rule addresses acceptable forms of identification for crewmembers aboard vessels in U.S. waters. By our acceptance in this rule of the international SID, some degree of interoperability, as it pertains to acceptable forms of identification, is

achieved. While the comment regarding background checks for foreign crewmembers is outside the scope of this rulemaking, which is focused on authoritatively identifying crewmembers, current requirements and programs are already in place to reduce the risk of a transportation security incident associated with foreign flag vessels and crew.

E. Electronic Identification Document Readers

Also, regarding interoperability, two commenters expressed concern that electronic TWIC readers will not be able to read the SID and, while overseas, SID readers will not be able to read TWICs.

Not all of the documents we define as *acceptable identification* in 33 CFR 160.310 are machine readable, but we expect to be able to efficiently and effectively examine them onboard.

F. Ratification of the ILO 185 Convention

Four commenters expressed support or desire for the United States to ratify the ILO 185 Convention and to remove U.S. visa requirements for crewmembers.

The United States' position regarding ratification of the ILO Convention 185 or removal of U.S. visa requirements for crewmembers is beyond the scope of this rulemaking. This rule is not intended to address immigration or shore leave requirements.

G. Availability of TWIC Hardware and Readers

One commenter stated it makes no sense to require American transportation and maritime workers to comply with TWIC when no hardware or readers exist to actually implement the program.

While outside the scope of this rulemaking, the Coast Guard notes that pilot testing of TWIC readers is currently underway.

H. The Scope of Sanctions

One commenter recommended that sanctions in § 160.320 be applied only to operators and not to crewmembers, stating that ship masters hold the passports of crewmembers on board and proposed § 160.315 requires vessel operators to ensure that their crewmembers have acceptable identification when the vessel is in U.S. waters.

The Coast Guard disagrees with the recommendation that sanctions should only be applied to vessel operators. Section 160.315 requires a crewmember subject to this rule not only to "carry and present on demand an acceptable

identification", but also provides that "a crewmember may secure his or her acceptable identification with the vessel's master, so long as the identification can be presented on demand." In discussing this section in the preamble of the NPRM, the Coast Guard stated that the practice of crewmembers on a vessel securing their acceptable identification with the master is consistent with the proposed rule if the identification is aboard and can be presented upon demand. 73 FR 27778, 27779, May 14, 2008. This rule is not intended to change existing practices of masters securing crewmember passports. If a crewmember was able to establish that he or she did provide his or her acceptable identification to the master with the understanding that it would be kept on board and made available upon demand, then the Coast Guard would take this into account when enforcing this regulation. We have made no changes from the proposed rule based on this comment.

I. Seamen's Books

One commenter stated that because seamen's books issued by foreign governments under the Seafarers' Identity Document Convention, 1958 (ILO-108) are travel documents that are accepted in place of passports, they should be included as an acceptable identification document for a crewmember. The commenter further stated that even though the United States has not ratified ILO-108, U.S. Customs and Border Protection (CBP) accepts ILO-108 seamen's books in place of passports. The commenter concludes, that while the § 160.310 definition of passport would include ILO-108 seamen's books, it would be helpful to specifically include ILO-108 seamen's books in the list of acceptable identification.

The Coast Guard disagrees with the recommendation that what the commenter refers to as ILO-108 seamen's books should be added to the list of acceptable identification. The Coast Guard also disagrees that such seamen's books meet the § 160.310 definition of passport. CBP may accept a seaman's book, in conjunction with a visa, as a passport alternative for purposes of determining admissibility, but CBP does not accept the book as a SID.

Our crewmember identification document rule lists a specific SID as an acceptable identification: one "issued by or under the authority of the government of a country that has ratified the International Labour Organization Seafarers' Identity

Documents Convention (Revised), 2003 (ILO 185), meeting all the requirements of ILO 185.” See 33 CFR 160.310. ILO-185 went into force on February 9, 2005, and, as its title indicates, revised ILO-108, Seafarers’ Identity Documents Convention, 1958. The term “seamen’s books” does not appear in ILO-108. And, like ILO-185, the 1958 convention refers to the issuance of a seafarer’s identity document, not a seaman’s book.

Under the 1958 Convention, a SID had to conform to the provisions of Article 4 of ILO-108, which include “particulars concerning the bearer.” The list of ILO-108 particulars, however, is not as extensive as those in ILO-185. As noted above, to be considered an acceptable identification, a SID must meet all the requirements of ILO 185. And while ILO-185 permits either “a previous SID, or a seafarers’ discharge book” to be used as proof an applicant for a SID is a seafarer, neither convention uses the term “seamen’s book” or “seafarers’ discharge book” to label the document issued by or under the authority of the government of a country that has ratified an ILO SID convention as the document that must be recognized by other nations that have ratified the convention.

We have not found a valid formal definition of the term “seamen’s book.” In addition, the term “seaman’s book” is not used in either ILO-108 or ILO-185, and the somewhat similar term “seafarers’ discharge book” is used in ILO-185, but for the limited purpose of providing proof that an applicant for an ILO-185 SID is a seafarer. Accordingly, we do not interpret either term as meeting the 33 CFR 160.310 definition of passport. We have made no changes from the proposed rule based on this comment.

J. Outer Continental Shelf Offshore Workers

One commenter questioned the need for additional identification documents for offshore workers located on the U.S. Outer Continental Shelf (OCS) in the Gulf of Mexico. Another commenter inferred that the Coast Guard does not consider a location on the OCS to be a “foreign port or place,” and asked for confirmation that this term, used in 33 CFR 160.300(a)(2), refers to a port or place outside of U.S. jurisdiction. A third comment added that crewmembers of a Mobile Offshore Drilling Unit (MODU) on the OCS should not have to present anything other than what is currently applicable for transport to and from a MODU.

The Coast Guard does not consider a location on the OCS to be a foreign port or place. See 43 U.S.C. 1333.

Applicability provisions in 33 CFR 160.300(a)(2) would not be triggered by a U.S.-flag vessel engaged in commercial service departing a place or MODU on the OCS because it would not be coming from a foreign port or place of departure. We have made no changes from the proposed rule based on this comment.

K. Travel Outside U.S. Territorial Sea

One commenter made a related request for assurances that the rule would not apply to crewmembers of U.S.-flagged passenger vessels that travel outside the U.S. territorial sea, but do not enter a foreign port or place. This commenter provided examples of U.S.-flagged whale-watching vessels or cruise-to-nowhere gaming vessels.

As noted above, the requirements of this rule would apply to a U.S.-flag vessel if it is engaged in commercial service and is coming from a foreign port or place of departure. 33 CFR 160.300(a)(2). In the definition section, § 160.310, the term “port or place of departure” is defined as “any port or place in which a vessel is anchored or moored.” If a U.S.-flagged vessel travels beyond the U.S. territorial sea but has not anchored or moored at a port or place in the waters of a foreign country, then it would not trigger the requirements of this rule because it would not be coming from a foreign port or place of departure when it returns to U.S. waters. We have made no changes from the proposed rule based on this comment.

L. Navigable Waters of the United States

One comment recommended that the Coast Guard more clearly define the scope of the term “navigable waters of the United States” in the final rule by including either a 3- or 12-mile-wide territorial sea as measured from the baseline, and not rely on reference to 33 CFR 2.36(a), which contains an additional reference.

In § 160.310 of the proposed rule, the Coast Guard defined the term “navigable waters of the United States” to mean “the same as this term is defined in 33 CFR 2.36(a).” That definition in § 2.36(a) identifies navigable waters as including U.S. territorial seas, U.S. internal waters subject to tidal influence, and certain U.S. internal waters not subject to tidal influence. In 33 CFR part 2, the Coast Guard provides a separate definition of “territorial sea.” Under this § 2.22 definition, the width of the territorial sea may be 3- or 12-nautical miles depending on the statute or regulation being enforced.

This crewmember identification document rule is issued under MTSA authority found at 46 U.S.C. 70111, as well as 33 U.S.C. 1223 and 1231 from the Ports and Waterways Safety Act (PWSA), Public Law 92-340 (July 10, 1972). Under both of these authorities, the territorial sea is 12 nautical miles wide. Under § 2.22(a)(1)(v), we interpret the territorial sea for regulations issued under MTSA, which was enacted after the Presidential Proclamation 5928 of December 27, 1988, to be 12 nautical miles wide. Also, the Coast Guard has already established that it interprets the territorial sea to be 12-nautical-miles wide for the PWSA. 33 CFR 2.22(a)(1)(i). In response to this comment, the Coast Guard has revised its definition in § 160.310 to read:

Navigable waters of the United States means the same as this term is defined in 33 CFR 2.36(a). This includes a 12-nautical-mile wide U.S. territorial sea as measured from the baseline, U.S. internal waters subject to tidal influence, and certain U.S. internal waters not subject to tidal influence.

This is one of only three changes from the regulatory text in the proposed rule.

M. Change Based on MMC Final Rule Being Issued

As noted above, on March 16, 2009, a final MMC rule was published (74 FR 11196). In our NPRM, we stated that if an effective rule were issued in the “Consolidation of Merchant Mariner Qualification Credentials” rulemaking before we issued this crewmember identification final rule, we would add the MMC to the list of acceptable identification documents. May 14, 2008, 73 FR 27780. Because this condition has been met we have added the MMC to 33 CFR 160.310, which defines *acceptable identification* for purposes of this rulemaking.

N. Clarification of Force Majeure Exception

In § 160.305 of the NPRM, we stated that requirements of this rule would not be “enforced against crewmembers and operators on a vessel bound for a U.S. port or place of destination under a claim of force majeure.” It is clearer, however, to state that the requirements of this rule do not apply in those circumstances. Accordingly, consistent with our NPRM preamble description of this section dealing with forces beyond the ship master’s control, we have revised § 160.305 to clarify that 33 CFR part 160, subpart D requirements will not apply to crewmembers and operators on a vessel bound for a U.S. port or place of destination under force majeure.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

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.

Public comments on the NPRM are summarized in Part IV of this preamble. We received no public comments that would alter our assessment of impacts in the NPRM. We have adopted the assessment in the NPRM as final. See the "Regulatory Evaluation" section of the NPRM for more details.

We expect that most crewmembers, U.S. and foreign, already possess an acceptable identification. Acceptable identifications in this rule are consistent with current identifications accepted by the Coast Guard and CBP to identify crewmembers. In addition, we expect that crewmembers carry their identification with them and that vessel operators examine the identification because carriers are required under 19 CFR 4.7b(d) and 4.64(d) to view these documents when preparing crew manifests, and because vessel operators are required to record the document number on the notice of arrival under 33 CFR 160.206(a)(4)(iv).

We provide estimates of burden and costs associated with this rule in the "Collection of Information" section of this rule.

B. 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.

Although the rule requires vessel operators to ensure that all crewmembers on the vessel have acceptable identification, we expect that vessel operators already look for an identification document from each crewmember in order to record the

document number on the notice of arrival. Otherwise, the burdens proposed by this rule fall on crewmembers and not on small entities as defined in the Regulatory Flexibility Act. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

D. Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions.

We received no public comment that would alter our assessment of the respondents and burden in the NPRM. We have adopted the assessment in the NPRM as final. See the "Regulatory Evaluation" section of the NPRM for more details. A summary of our respondent and burden estimates follow.

Title: Crewmember Identification Documents.

OMB Control Number: 1625–0113.

Summary of the Collection of Information: This collection of information comprises the recordkeeping necessary to possess, present on demand, and ensure compliance with requirements for identification of crewmembers on foreign and U.S. vessels in navigable waters of the United States.

Need for Information: In the MTSA, Congress directed the Secretary of the Department in which the Coast Guard is operating to require all crewmembers on vessels calling at U.S. ports to carry and present on demand any identification the Secretary decides is necessary. The acceptable identification required by

this rule will allow the Coast Guard to authoritatively identify crewmembers on vessels within U.S. waters.

Use of Information: The information collected would be used to authoritatively identify crewmembers on vessels within U.S. waters.

Description of the Respondents: The respondents include all crewmembers on a foreign vessel in the navigable waters of the United States en route to a U.S. port or place of destination or at a U.S. port or place, and all crewmembers on a U.S. commercial vessel in the navigable waters of the United States coming from a foreign port or place of departure to a U.S. port or place of destination. The respondents also include the operators of those foreign and U.S. vessels.

Number of Respondents: We estimate the number of respondents is 838,084 persons, comprising crewmembers and vessel operators. This figure is based on Coast Guard records of the number of affected vessels that enter U.S. ports, Coast Guard estimates of the number of crewmembers on vessels, and estimates of the frequency of crew rotation. Using Coast Guard Notice of Arrival data, we estimate 10,649,843 responses per year from all crewmembers and operators. This estimate varies somewhat by year.

Frequency of Response: We estimate, on average, a typical crewmember would respond 13 times per year. Vessel operators would respond each time a vessel submits a notice of arrival.

Burden of Response: Coast Guard records indicate the burden imposed on the respondents is negligible. From our records, we expect nearly all crewmembers already possess and carry an acceptable identification. We also expect vessel operators already check crewmembers' identifications since the type and number must be reported on the Notice of Arrival.

Estimate of Total Annual Burden: We estimate there would be no more than 320,851 potential annual responses involving a document other than acceptable identification. Based on an average of 13 visits per crewmember per year, this amounts to about 24,681 crewmembers that use some other form of identification. We estimate the cost burden of response for these crewmembers to be \$2,714,910, using \$97 as the cost of obtaining an acceptable ID, and \$13 as the opportunity cost of time.

As required by 44 U.S.C. 3507(d), we submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information. On November 20, 2008, OMB approved the collection for a 3-year period, until November 30, 2011.

The OMB Control Number for this collection is 1625–0113.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number. This publication of OMB's control number in the **Federal Register** will constitute display of that number, see 5 CFR 1320.3(f)(3), as required under 44 U.S.C. 3506(c)(1)(B).

E. 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.

F. 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.

G. 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.

H. 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.

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

J. 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.

K. 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (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.

M. Environment

We have analyzed this rule under Department of Homeland Security Directive 0023.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2, Figure 2–1, paragraph 34(d) of the Instruction, and neither an environmental assessment nor an environmental impact statement is required. This rule involves

crewmember identification documents and falls within the documentation portion of this categorical exclusion. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Identification, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Seamen, Vessels, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 160 as follows:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

■ 1. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart C is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

■ 2. Add subpart D, consisting of §§ 160.300 through 160.320, to read as follows:

Subpart D—Crewmember Identification

Sec.
160.300 Applicability.
160.305 Exceptions.
160.310 Definitions.
160.315 Crewmember identification requirement.
160.320 Sanctions and vessel control.

§ 160.300 Applicability.

(a) This subpart applies to crewmembers on the following vessels in the navigable waters of the United States en route to a U.S. port or place of destination or at a U.S. port or place:

- (1) A foreign vessel engaged in commercial service, and
- (2) A U.S. vessel engaged in commercial service and coming from a foreign port or place of departure.

(b) This subpart also applies to the operators of the vessels listed in paragraph (a) of this section.

§ 160.305 Exceptions.

Requirements in this subpart do not apply to crewmembers and operators on a vessel bound for a U.S. port or place of destination under *force majeure*.

§ 160.310 Definitions.

As used in this subpart, and only for purposes of this subpart—

Acceptable identification means a:

- (1) Passport;

- (2) U.S. Permanent Resident Card;
- (3) U.S. merchant mariner document;
- (4) U.S. merchant mariner credential;
- (5) Transportation Worker

Identification Credential (TWIC) issued by the Transportation Security Administration under 49 CFR part 1572; or

(6) Seafarer's Identification Document (SID) issued by or under the authority of the government of a country that has ratified the International Labour Organization Seafarers' Identity Documents Convention (Revised), 2003 (ILO 185), meeting all the requirements of ILO 185.

Commercial service means any type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.

Crewmember means all persons carried onboard a vessel to provide: navigation services; maintenance of the vessel, its machinery, or systems; arrangements essential for propulsion or safe navigation; or services for other persons onboard.

Foreign vessel means a vessel of foreign registry or operated under the authority of a country except the United States.

Navigable waters of the United States means the same as this term is defined in 33 CFR 2.36(a). This includes a 12-nautical-mile wide U.S. territorial sea as measured from the baseline, U.S. internal waters subject to tidal influence, and certain U.S. internal waters not subject to tidal influence.

Operator means any person including, but not limited to, an owner, a charterer, or another contractor who conducts, or is responsible for, the operation of a vessel.

Passport means any travel document issued by competent authority showing the bearer's origin, identity, and nationality if any, which is valid for the admission of the bearer into a foreign country.

Port or place of departure means any port or place in which a vessel is anchored or moored.

Port or place of destination means any port or place in which a vessel is bound to anchor or moor.

§ 160.315 Crewmember identification requirement.

(a) A crewmember subject to this subpart must carry and present on demand an acceptable identification. An operator subject to this subpart must ensure that every crewmember on the vessel has an acceptable identification in his or her possession when the vessel is in the navigable waters of the United States. For purposes of this section, a

crewmember may secure his or her acceptable identification with the vessel's master, so long as the identification can be presented on demand.

(b) Compliance with the requirements in this section does not relieve vessel crewmembers and operators of any requirements under the Immigration and Nationality Act (INA) or INA implementing regulations. Likewise, compliance with INA requirements does not relieve vessel crewmembers and operators of the requirements in this section.

§ 160.320 Sanctions and vessel control.

Failure to comply with this subpart will subject the crewmember and operator to a civil penalty under 46 U.S.C. 70119 and the vessel to control under 33 U.S.C. 1223(b).

Dated: April 22, 2009.

Howard L. Hime,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. E9-9634 Filed 4-27-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0179]

RIN 1625-AA00

Safety Zone; St. Thomas Harbor, Charlotte Amalie, U.S.V.I.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast is establishing a temporary safety zone on the navigable waters of St. Thomas Harbor in support of the Virgin Islands Carnival Finale fireworks display. This temporary safety zone is necessary to provide for the safety of spectators, participating vessels and their crews, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port (COTP) San Juan or the designated representative.

DATES: This rule is effective from 7 p.m. on May 2, 2009, through 10:30 p.m. on May 2, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0179 and are available online by going to <http://www.regulations.gov>, selecting

the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0179 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. John Reyes, Marine Information Specialist, U.S. Coast Guard, Prevention Department telephone 787-729-5381, e-mail John.Reyes@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because information regarding the event was not provided with sufficient time to publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to minimize potential danger to the public during the fireworks display.

For the same reasons above, 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**. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction and provide on scene notification.

Background and Purpose

This rule is required to provide for the safety of life in St. Thomas Harbor because fireworks will be launched from a vessel within the harbor. These fireworks could potentially pose a safety hazard to the small craft operators that