

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

### 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.

### 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 does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for the temporary final rule.

### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

For the reasons set out 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; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.789, from 8 a.m. through 12 p.m. on May 6, 2001, paragraph (c) is temporarily suspended and a new paragraph (g) is added to read as follows:

#### § 117.789 Harlem River

\* \* \* \* \*

(g) The draws of the Third Avenue Bridge, mile 1.9, and the Madison Avenue Bridge, mile 2.3, across the Harlem River between Manhattan and the Bronx, need not open for vessel traffic on May 6, 2001, from 8 a.m. to 12 p.m.

3. In section 117.801, from 9:30 a.m. through 1:30 p.m. on May 6, 2001, paragraph (g) and (h) are suspended and a new paragraph (i) is added to read as follows:

#### § 117.801 Newtown Creek, Dutch Kills, English Kills, and their tributaries.

\* \* \* \* \*

(i) The draw of the Pulaski Bridge, mile 0.6, across the Newtown Creek between Brooklyn and Queens, need not open for vessel traffic, on May 6, 2001, from 9:30 a.m. to 1:30 p.m.

Dated: April 19, 2001.

**G.N. Naccara,**

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

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**BILLING CODE 4910–15–U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR PART 117

[CGD08–01–007]

RIN 2115–AE47

#### Drawbridge Operating Regulation; Ouachita River, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the regulation governing the operation of the Kansas

City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, at Monroe, Ouachita Parish, Louisiana. This rule allows for the passage of vessels from June 4, 2001, through November 15, 2001 during the morning hours with proper advance notice. This rule is issued to facilitate the repairs to the turn span of the bridge. Normally, the draw opens on signal at all times.

**DATES:** This rule is effective from June 4, 2001, through November 15, 2001.

**ADDRESSES:** Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will be available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Frank, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, telephone number 504–589–2965.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On March 30, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operating Regulation; Ouachita River, Louisiana, in the **Federal Register** (66 FR 17376). We received one letter commenting on the proposed rule. No public hearing was requested, and none was held.

##### Background and Purpose

The Kansas City Southern Railroad has submitted plans to repair the turn span of the swing span bridge across the Ouachita River, mile 167.1, at Monroe. To facilitate the continued movement of trains across the bridge during the repairs, the railroad plans to remove the swing span and temporarily replace it with a removable span bridge with 70 feet of horizontal clearance. The railroad has requested limited openings during the repair period of May 7, 2001 through November 30, 2001. Frequent need to remove and replace the span will severely limit the railroad's ability to complete the repairs in a timely manner.

Discussions were held between the railroad, its contractor, waterway users, and facility operators to determine the best method of allowing vessels to transit the waterway during the repair period. The discussions centered on the mariner's ability to transit the bridge site on any day if proper notification was given. The railroad only wanted to

open the bridge on certain days during the morning hours. Mariners explained that their schedule was not such that they would need to go through the bridge on set days and that the proposed schedule by the railroad may require vessels to wait almost 48 hours for the passage. It was determined that due to the limited number of transits, openings would not be required daily but set days would not be acceptable.

Following the meetings, the group recommended to the Coast Guard that

—The draw need not open for the passage of vessels from 2 a.m. on June 4, 2001 through 2 a.m. on June 6, 2001, and from 2 a.m. on November 12, 2001 until 2 a.m. on November 14, 2001.

—At all other times between June 4, 2001 and November 15, 2001, the draw of the bridge need not open for the passage of vessels, except from 8 a.m. to 11 a.m. daily for those vessels that have provided at least 20-hours notice.

The two 48-hour closures will allow for the removal and replacement of the swing span and placement of the removable span sections of the bridge. Upon establishment of the removable span bridge, mariners will be able to transit the bridge site between the hours of 8 a.m. and 11 a.m. daily provided that at least 20-hours notice is given.

#### Discussion of Comments and Changes

Only one letter was received for the NPRM. The Louisiana Department of Agriculture and Forestry offered no comments on the proposed rule. No changes have been incorporated into the Final Rule.

#### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule maintains the movement of vessels while allowing the bridge owner to repair his bridge as expeditiously as possible.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard

considers whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

#### Assistance for Small Entities

Under the 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

#### Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

#### Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule would not have implications for federalism under that Order. No comments were received with regards to federalism during NPRM comment period.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that impose unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government’s having first provided the funds to pay those costs. This rule would not impose an unfunded mandate. No comments were received with regards to unfunded mandates during NPRM comment period.

#### Taking of Private Property

This rule would 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. No comments were received with regards to the taking of private property during NPRM comment period.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O.

12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No comments were received with regards to the taking of private property during NPRM comment period.

#### 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. Bridge Administration Program actions that can be categorically excluded include promulgation of operating regulations or procedures for drawbridges. A “Categorical Exclusion Determination” is available in the docket where indicated under

#### ADDRESSES.

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

Bridges.

#### Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, 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; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From 2 a.m. on June 4, 2001 until 6 p.m. on November 15, 2001, in § 117.483, the existing text is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

#### § 117.483 Ouachita River.

\* \* \* \* \*

(b) The draw of the Kansas City Southern Railroad swing span bridge, mile 167.1, at Monroe, shall operate as follows:

(1) The draw need not open for the passage of vessels from 2 a.m. on June 4, 2001, through 2 a.m. on June 6, 2001, and from 2 a.m. on November 12, 2001, through 2 a.m. on November 14, 2001.

(2) At all other times between June 4, 2001, and November 15, 2001 inclusive, the draw need not open for the passage of vessels, except from 8 a.m. until 11 a.m. daily, the draw shall open for vessels that have provided at least 20-hours notice.

Dated: April 19, 2001.

**Paul J. Pluta,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD07-01-034]

RIN 2115-AE47

#### **Drawbridge Operation Regulations: Atlantic Intracoastal Waterway, Fort Lauderdale, Broward County, FL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily modifying the regulations governing the operation of the East Sunrise Boulevard and East Las Olas Drawbridges across the Atlantic Intracoastal Waterway, mile 1062.6 and 1064, in Fort Lauderdale, Florida. This temporary rule allows the East Sunrise Boulevard and East Las Olas Drawbridges to remain closed for periods of time on May 5 and May 6, 2001 to facilitate the vehicle traffic flow from the 2001 Air & Sea Show.

**DATES:** This rule is effective from 4 p.m. on May 5, 2001 until 6 p.m. on May 6, 2001.

**ADDRESSES:** Material received from the public as well as documents indicated in this preamble as being available in the docket are part of docket [CGD07-01-034] and are available for inspection or copying at Commander (oan), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, Florida 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Section, at (305) 536-7331.

#### **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. Publishing an NPRM was impracticable and contrary to the public interest. There was insufficient time remaining to publish an NPRM after we were notified of the required closure, and further delaying the event to follow normal rulemaking procedures before incorporating this important safety measure would have a significant negative affect on the outcome of this annual, highly-attended event.

For the same reasons, 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**.

##### **Background and Purpose**

The East Las Olas Boulevard Drawbridge, mile 1064.0, across the Atlantic Intracoastal Waterway, has a vertical clearance of 31 feet above mean high water and a horizontal clearance of 91 feet between fenders. The existing operating regulations in 33 CFR 117.5 require the bridge to open promptly and fully for the passage of vessels when a request to open is given.

The East Sunrise Boulevard Drawbridge, mile 1062.6, across the Atlantic Intracoastal Waterway, has a vertical clearance of 25 feet at mean high water and a horizontal clearance of 90 feet between fenders. The existing operating regulations in 33 CFR 117.261(gg) require the bridge to open on signal; except that from November 15 to May 15, from 10 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour and three-quarter hour.

The City of Fort Lauderdale Police Department recently requested that the Coast Guard temporarily change the operating regulations for both drawbridges during parts of the 2001 Air and Sea Show to allow the considerable amounts of vehicular and pedestrian traffic be moved away from the beach as safely and quickly as possible. These temporary changes to the drawbridges operating regulations will allow the draws of the East Sunrise Boulevard and East Las Olas Boulevard drawbridges in Fort Lauderdale, Florida, to remain closed from 4 p.m. to 6 p.m. and 9:45 p.m. to 10:45 p.m. on May 5, 2001, and from 4 p.m. to 6 p.m. on May 6, 2001. Except that, the East Sunrise Boulevard drawbridge may open at 4:45 p.m. and 5:30 p.m. each day, and the East Las Olas Boulevard drawbridge may open at 4:30 p.m. and 5:15 p.m. each day on May 5 and 6, 2001.

##### **Regulatory Evaluation**

This proposal is not a "significant regulatory action" under section 3(f) of

Executive Order 12866 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 Transportation (DOT)(44 FR 11040:February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The changes to the bridge's operating schedules will only be in effect for five total hours over a two-day period. Further, the temporary schedules still allow for some scheduled openings, albeit at reduced intervals.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. "Small entities" include small business, 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 as the regulations will only be in effect for five total hours over a two day period and the event will be highly publicized.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-221), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. 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