

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.

#### 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.

#### 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. From July 29, 2001 through December 31, 2001, § 117.795 is temporarily amended by suspending paragraph (b) and adding a new paragraph (d) to read as follows:

#### § 117.795 Jamaica Bay and connecting waterways.

\* \* \* \* \*

(d)(1) The draws of the New York City highway bridge, mile 0.8, across Mill Basin on Belt Parkway, need not be opened for the passage of vessels from noon to 9 p.m. on Sundays from July 29, 2001 to December 31, 2001 and on Labor Day. However, on these days, from two hours before to one hour after predicted high tide, the draw shall open on signal. For the purposes of this section, predicted high tide occurs 15 minutes later than that predicted for Sandy Hook, as given in the tide tables published by the National Oceanic and Atmospheric Administration.

(2) From 10 p.m. to 5 a.m., Sunday through Thursday, from July 29, 2001 through December 31, 2001, the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

(3) At all times, public vessels of the United States and state or local vessels used for public safety shall be passed as soon as possible.

Dated: July 20, 2001.

**G.N. Naccara,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-01-019]

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

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117.5 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 deviation allows the bridge owner to close the bridge to navigation from noon on Sunday, August 19, 2001 until noon on Tuesday, August 21, 2001. Presently, the draw is required to open on signal for the passage of vessels. This temporary deviation was issued to allow for repairs to the turn span of the bridge.

**DATES:** This deviation is effective from noon on August 19, 2001 until noon on August 21, 2001.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130-3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The Kansas City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, at Monroe, Ouachita Parish, Louisiana has a vertical clearance of 2 feet above high water in the closed-to-navigation position and 52 feet above high water in the open-to-navigation position. Navigation on the waterway consists primarily of tugs with tows. Modjeski and Masters, consulting engineers for the Kansas City Southern Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the jacking of the swing span at the center and ends (bridge in the closed position) sufficient to raise the center circular turning track several inches to improve the opening and closing of the swing span. This maintenance is

necessary for the continued operation of the bridge.

This deviation allows the draw of Kansas City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, to remain closed to navigation from noon on August 19, 2001 until noon on August 21, 2001.

Dated: July 26, 2001.

**Roy J. Casto,**

*RADM, USCG, Commander, 8th CG District.*  
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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD05-01-001]

RIN 2115-AE47

#### **Drawbridge Operation Regulation; Beaufort Channel, Beaufort, NC**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations that govern the operation of the Graydon Paul Drawbridge on US 70 across Beaufort Channel, also known as Gallant's Channel mile 0.1, located in Beaufort, North Carolina, at the request of the North Carolina Department of Transportation.

The final rule reduces the number of bridge openings during times of peak highway traffic. This final rule is intended to reduce motor vehicular delays and congestion related to commuter traffic going to and from work in the mornings and evenings, while still providing for the reasonable needs of navigation.

**DATES:** This final rule is effective on September 4, 2001.

**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 CGD05-01-001, and are available for inspection or copying at the office of the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222.

**FOR FURTHER INFORMATION CONTACT:** Ann Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398-6222.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

On April 13, 2001, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Beaufort Channel, Beaufort, NC" in the **Federal Register** (66 FR 19105). The Coast Guard received 5 letters commenting on the proposed rulemaking. No public hearing was requested and none was held.

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

The Graydon Paul Drawbridge across Beaufort Channel, located in Beaufort, North Carolina, is owned and operated by the North Carolina Department of Transportation (NCDOT). The current regulation at 33 CFR 117.822 requires the bridge to open on signal, except that from 6 a.m. to 10 p.m., the draw opens on signal for all vessels waiting to pass every hour on the hour, twenty minutes past the hour and forty minutes past the hour; except that on weekdays the bridge need not open at 7:40 a.m., 8:40 a.m., 4:40 p.m. and 5:40 p.m.

NCDOT requested that openings of the Graydon Paul Drawbridge be further restricted by limiting drawbridge openings to on the hour and half hour seven days a week and rush hour restrictions from 6:30 a.m. to 8 a.m. and 4:30 p.m. to 6 p.m. during weekday morning and evening rush hours. This request to change the current regulation is based on heavy vehicular commuter traffic traveling to and from the Town of Beaufort during peak rush hour periods. The Graydon Paul Drawbridge is located on US Highway 70, which is the only corridor entering and exiting the town of Beaufort from Morehead City, North Carolina. Drawbridge openings create long traffic backups often extending for 6 to 7 miles. The heavy congestion often results in vehicular accidents. NCDOT contends that openings on the hour and half hour and extending rush hour restrictions will allow the bridge to clear the traffic before another opening occurred. Vehicular traffic congestion on US Highway 70 will be reduced and highway safety will be increased without placing undue hardship on vessel traffic.

NCDOT provided the Coast Guard with statistical data which shows that 12-13000 vehicles cross the drawbridge each day. When drawbridge openings occur every twenty minutes, traffic backups extend for several miles and cannot clear before the next opening. One mile South of the Graydon Paul Drawbridge on the same route is the Morehead City US 70 Bridge, which is a fixed 65 ft vertical clearance bridge on

the Atlantic Intracoastal Waterway (AICWW). It is an alternate route for boaters to go around through the AICWW by Morehead City back to Beaufort. Motorist do not have an alternate route on US 70 back and forth to and from Beaufort to Morehead City. In reviewing the recent draw logs and traffic counts, the Coast Guard has determined that the current regulations do not allow traffic to clear especially during rush hour periods and there was minimal vessel traffic at these times, therefore, a reduction in the number of openings will not substantially impact navigational traffic, but will provide a positive offsetting benefit to vehicular traffic.

The Coast Guard is amending § 117.822 by changing drawbridge openings from 6 a.m. to 10 p.m. to opening on the hour and half hour and eliminating openings from 6:30 a.m. to 8 a.m. and 4:30 p.m. to 6 p.m. on weekdays only, year round. All other provisions of the existing regulation will remain the same.

##### **Discussion of Comments and Changes**

The Coast Guard received 5 letters on the NPRM in support of the proposed changes to the regulation. The comments applauded the change and went further in asking that the bridge be welded shut. Since all of the comments favorably addressed the proposed change for which comments were being solicited, and the Coast Guard has determined permanently closing the bridge to all vessel traffic would interfere with navigation, the final rule is being implemented without change.

##### **Regulatory Evaluation**

This final 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 Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Coast Guard reached this conclusion based on the fact that the final rule will not prevent mariners from transiting the bridge, but merely require them to plan their transits in accordance with the scheduled bridge openings.