

December. The bridge normally opens to pass navigation on an average of five times per day. In accordance with 33 CFR 117.5, the draw of the bridge opens on signal. The bridge will not be able to open for emergencies during the closure period. No alternate routes are available.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 15, 2002.

Marcus Redford,

Bridge Administrator.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-02-039]

Drawbridge Operating Regulations; Inner Harbor Navigation Canal, New Orleans, 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 governing the operation of the SR 46 (St. Claude Avenue) bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock) in New Orleans, Orleans Parish, Louisiana. This deviation allows the bridge to remain closed to navigation from 6:45 a.m. until 6:45 p.m. on Wednesday, December 4, 2002. This temporary deviation is necessary to allow for the replacement of the lakeside lower forward roller assembly for the operating strut guide of the bridge.

DATES: This deviation is effective from 6:45 a.m. until 6:45 p.m. on Wednesday, December 4, 2002.

ADDRESSES: Materials referred to in this document are 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. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

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

SUPPLEMENTARY INFORMATION: The Board of Commissioners of the Port of New Orleans has requested a temporary deviation in order to replace the lakeside lower forward roller assembly for the operating strut guide of the bridge. These repairs are necessary for the continued operation of the bridge. This deviation allows the draw of the St. Claude Avenue bascule bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), to remain closed to navigation from 6:45 a.m. until 6:45 p.m. on Wednesday, December 4, 2002.

The bascule bridge has a vertical clearance of 1 foot above high water in the closed-to-navigation position. Navigation on the waterway consists mainly of tugs with tows and some ships. The bridge normally opens to pass navigation an average of eight times during the deviation period. In accordance with 33 CFR 117.458(a), the draw of the bridge opens on signal; except that, from 6:45 a.m. to 8:30 a.m. and from 4:45 p.m. to 6:45 p.m., Monday through Friday, except federal holidays, the draw need not open for the passage of vessels. Normally, the draw is required to open at any time for a vessel in distress. However, the bridge will not be able to open for emergencies during the closure period. An alternate route is available to mariners by proceeding down the Mississippi River to Venice, Louisiana, crossing the Breton Sound and proceeding up the Mississippi River Gulf Outlet.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 15, 2002.

Marcus Redford,

Bridge Administrator.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-02-014]

RIN 2115-AE47

Drawbridge Operation Regulation; Northeast Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Isabel S. Holmes Bridge across the Northeast Cape Fear River, mile 1.0, in Wilmington, North Carolina. The final rule will reduce the number of bridge openings for transit of pleasure craft during a four-year bridge repair project. This change will reduce traffic delays while still providing for the reasonable needs of navigation. In addition, an administrative correction is being made to the name of the waterway. The "Northeast River" is being changed to the "Northeast Cape Fear River".

DATES: This rule is effective December 26, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as available in the docket, are part of docket CGD05-02-014 and are available for inspection or copying at Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 30, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Northeast Cape Fear River, Wilmington, North Carolina" in the **Federal Register** (67 FR 37746). We received one letter commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Isabel S. Holmes Drawbridge is owned and operated by the North Carolina Department of Transportation (NCDOT). The regulation in 33 CFR 117.5 requires the bridge to open promptly and fully once a request to open is received. When the bridge is

closed there is 40 feet of vertical clearance.

The Isabel S. Holmes Bridge crosses the Northeast Cape Fear River. It makes connections with Route 133 and the US-17 corridor, which supports the general north/south flow of traffic through the region. The bridge is one of two river crossings under high vehicular use in the region. According to figures from 1999, approximately 19,000 vehicles pass over the bridge every day. Between 1999 and the present, an average of 12 pleasure craft per month transited the area and required bridge openings between the hours of 6 a.m. and 6 p.m. Motorists did not have an alternate route when traveling this stretch of highway unless they drove several traffic congested miles. Boaters did not have an alternate route to transit this waterway when the drawbridge was closed.

NCDOT requested permission to decrease the number of openings for pleasure craft to avoid excessive/hazardous traffic back-ups during repairs. NCDOT proposed an inter-modal compromise that will limit the times of draw openings during hours of bridge repair. NCDOT asserts that by closing the bridge to pleasure craft during daytime hours, except for two scheduled openings per day for waiting vessels, vehicular traffic congestion will be reduced and highway safety will be enhanced. NCDOT provided statistical data, which supports the traffic counts for a two-way four-lane bridge being changed to a two-way two-lane bridge. The data also revealed that the draw was opened an average of 12 times/month for pleasure craft, between the hours of 6 a.m. and 6 p.m. The Coast Guard considered restricting all navigation but chose not to, due to the safety concerns of restricting commercial vessels with hazardous cargoes. The Coast Guard believes that closure during the proposed time periods will not overburden recreational marine traffic while allowing the continued use of two lanes for the two-way flow of vehicular traffic.

This final rule will revise 33 CFR 117.829, which regulates the scheduled openings of the Seaboard System Railroad Bridge across Northeast Cape Fear River at mile 27.0. The previous regulatory text contains no paragraph designation. The regulatory text describes the "Northeast River," and this section is incorrectly titled the "Northeast River." This final rule corrects the river name and includes the Isabel S. Holmes Bridge in the same section.

Discussion of Comments and Changes

The Coast Guard received one letter on the NPRM. This letter stated they had no objection to the proposed rule, therefore, no changes were made to the final rule.

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).

We expect 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.

We reached this conclusion based on the fact that these changes will not impede maritime traffic transiting the bridge, but merely require mariners to plan their transits in accordance with the scheduled bridge openings, while still providing for the needs of the bridge owner.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this final 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 final rule will not have a significant economic impact on a substantial number of small entities.

This final rule will not have a significant economic impact on a substantial number of small entities because the regulation does not restrict the movement of commercial navigation, but only restricts the movement of pleasure craft (approx. 12 openings each month). In addition, to avoid any potential restriction to navigation, maritime advisories will be widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they

can better evaluate its effects on them and participate in the rulemaking. In our notice of proposed rule making we provided a point of contact to small entities, who could answer questions concerning proposed provisions or options for compliance.

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 could 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 final rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This final 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 final 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 final 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.

Indian Tribal Governments

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

Energy Effects

We have analyzed this final 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.

Environment

We have considered the environmental impact of this final rule and concluded that, under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

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; 49 CFR 1.46; 33 CFR 1.05-1(g); Section 117.255 also issued under authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.829 is revised to read as follows:

§ 117.829 Northeast Cape Fear River.

(a) The draw of the Isabel S. Holmes Bridge, at mile 1.0, at Wilmington, North Carolina will operate as follows:

(1) The draw will be closed to pleasure craft from 6 a.m. to 6 p.m. every day except at 10 a.m. and 2 p.m. when the draw will open for all waiting vessels.

(2) The draw will open on signal for Government and commercial vessels at all times.

(3) The draw will open for all vessels on signal from 6 p.m. to 6 a.m.

(b) The draw of the Seaboard System Railroad Bridge across the Northeast Cape Fear River, mile 27.0, at Castle Hayne, North Carolina shall open on signal if at least 4 hours notice is given.

Dated: November 12, 2002.

James D. Hull,
Vice Admiral, U.S. Coast Guard, Commander,
Fifth Coast Guard District.

[FR Doc. 02-29905 Filed 11-22-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP No. MT23-1-6402; FRL-7412-2]

Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plan Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: On September 19, 1975, we approved the East Helena Sulfur Dioxide (SO₂) State Implementation Plan (SIP). Additionally, on May 1, 1984, we approved revisions to the East Helena SO₂ SIP. Finally, on January 27, 1995, we approved additional revisions to the East Helena SO₂ SIP. The East Helena SO₂ SIP approved on January 27, 1995, superceded the East Helena SO₂ SIP approved on September 19, 1975, and terminated the East Helena SO₂ SIP approved on May 1, 1984. However, when we approved the SIP revision on January 27, 1995, we did not indicate that it superceded and terminated earlier SIP approvals. EPA is making a correction to the regulatory language to clarify that the earlier East Helena SO₂ SIP revisions have been superceded or terminated by the East Helena SO₂ SIP approved on January 27, 1995.

DATES: This rule is effective on December 26, 2002.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA, Region 8, (303) 312-6437

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we" or "our" is used it means EPA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting incorrect text in previous rulemakings. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

I. Correction

When we approved the East Helena Sulfur Dioxide (SO₂) State Implementation Plan (SIP) on January 27, 1995 (60 FR 5313) (codified at 40 CFR 52.1370(c)(37)), we should have indicated that our September 19, 1975 (40 FR 43216) (currently codified at 40 CFR 52.1370(c)(5)), approval of the East Helena SO₂ SIP was superceded and that effective after November 15, 1995, our May 1, 1984 (49 FR 18482) (codified at 40 CFR 52.1370(c)(16)), approval of a revision to the East Helena SO₂ SIP was terminated. The Board Order issued on March 18, 1994, by the Montana Board of Health and Environmental Sciences, and incorporated by reference at 40 CFR 52.1370(c)(37)(i)(B), indicates that the SIP supercedes all requirements contained in the existing provisions of the SIP relating to sulfur dioxide in East Helena * * * except the provisions that relate to catalyst screening which terminated effective after November 15, 1995. We approved the East Helena SO₂ SIP on January 27, 1995, that contained an attainment demonstration and a control strategy for the primary SO₂ NAAQS. Therefore, pursuant to section 110(k)(6) of the Clean Air Act, we are clarifying 40 CFR 52.1370(c)(37) to indicate that the East Helena SO₂ SIP revision submitted on March 30, 1994, supercedes the East Helena SO₂ SIP approved in paragraph (c)(5) and, effective after November 15, 1995, terminates the East Helena SO₂ SIP approved in paragraph (c)(16).

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May