

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

#### 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.

#### 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this final rule will alter the normal operating conditions of the drawbridge, it falls within this

exclusion. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are 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 is amending 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

- 2. § 117.258 is added to read as follows:

#### § 117.258 Apalachicola River.

The draw of the CSX Railroad bridge, mile 105.9, at River Junction shall open on signal Monday through Friday from 8 a.m. until 4 p.m. At all other times the bridge will open on signal if at least 4 hours notice is given.

Dated: July 10, 2003.

**R.F. Duncan,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

**[CGD01–03–039]**

**RIN 1625-AA09 (Formerly 2115-AE47)**

#### Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary final rule governing the operation of the Long Beach Bridge, at mile 4.7, across Reynolds Channel, New York. This temporary final rule will allow the bridge to operate only one lift span for openings, on the even hour, 8 a.m. to 4

p.m., daily. Additionally, two five-day bridge closures will also be allowed to occur during this temporary final rule at dates to be announced after September 2003. This action is necessary to facilitate structural repairs at the bridge.

**DATES:** This temporary final rule is effective from July 1, 2003 through April 30, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket (CGD01–03–039) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110–3350, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7165.

#### 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 and 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 believes making this rule effective in less than thirty days after publication is reasonable because we coordinated this revised temporary operating schedule in advance with the mariners that use this waterway, and the continuation of the bridge repair work is vital in order to assure the continued safe operation of the bridge.

Historically, there are few requests to open this bridge and the bridge will be available to provide single span openings for all but approximately ten days during the effective period of this temporary rule.

#### Background and Purpose

The Long Beach Bridge has a vertical clearance of 20 feet at mean high water and 24 feet at mean low water. The existing regulations are listed at 33 CFR 117.799(g).

The bridge owner, Nassau County Department of Public Works, asked the Coast Guard to temporarily change the drawbridge operation regulations to facilitate structural repairs at the bridge.

On September 5, 2002, we published a temporary final rule in the **Federal Register** (67 FR 56754). That rule allowed the bridge to open only a single lift span for bridge openings on the even hours 8 a.m. to 4 p.m. after a one-hour notice was given and from 11 p.m.

through 5 a.m., the bridge was to remain in the closed position. Additionally, two consecutive, Monday through Friday, five day closures were also scheduled to occur during the rule's effective period. Those closure dates were to be announced in the Local Notice to Mariners.

The Coast Guard was notified by the bridge owner that the effective period for the bridge repairs must be extended to continue until April 30, 2004, in order to complete the project. The requirements published in (67 FR 56754) allowing the bridge to remain closed from 11 p.m. to 5 a.m. daily, and the requirement for mariners to provide a one-hour advance notice for bridge openings will be eliminated during this second temporary final rule.

The two five days closures will still be scheduled to occur sometime after September 2003. The exact dates will be announced in the Local notice to Mariners.

#### **Regulatory Evaluation**

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion is based on the fact that there have been few requests to open the bridge historically.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 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.

This conclusion is based on the fact that there have been few requests to open the bridge historically.

#### **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 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.

#### **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 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.

#### **Taking of Private Property**

This 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 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.

#### **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.

#### **Environment**

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1D, 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 "Categorical Exclusion Determination" is available in the docket for inspection or copying 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 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 1, 2003 through April 30, 2004, § 117.799 is amended by suspending paragraph (g) and adding a new paragraph (j) to read as follows:

#### **§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.**

\* \* \* \* \*

(j) The Long Beach Bridge, mile 4.7, across Reynolds Channel, shall open on signal; except that, only one lift span need be opened for vessel traffic, on the even hour, 8 a.m. to 4 p.m., daily. The draw need not open for vessel traffic for two periods of five consecutive days after September 2003 to be announced in the Local Notice to Mariners and in a Broadcast Notice to Mariners.

Dated: July 1, 2003.

**Vivien S. Crea,**

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

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**DEPARTMENT OF HOMELAND  
SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[CGD09-03-245]**

**RIN 1625-AA00**

**Safety Zone; Selfridge ANGB Air Show,  
Harrison Twp., MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone during the Selfridge ANGB Air Show on July 24, 25, and 26, 2003. This safety zone is necessary to prevent waterway distractions during the Thunderbird aircraft aerial display, as required by the Federal Aviation Administration. The safety zone is intended to restrict vessel traffic in a portion of the Clinton River during specific periods on the affected dates. Specific closure periods will be announced via Broadcast Notice to Mariners on VHF Channel 16. Only authorized vessels are permitted to enter or remain within the safety zone.

**DATES:** This rule is effective from 4:30 p.m. on July 24, 2003, until 3 p.m. on July 26, 2003.

**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 CGD09-03-245 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott St., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**  
LTJG Brandon Sullivan, U. S. Coast Guard Marine Safety Office Detroit, at (313) 568-9558.

**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, and 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

permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. In addition, the Federal Aviation Administration requires certain safety precautions be in place prior to particular airshows, this rule ensures some of those precautions are in place.

**Background and Purpose**

A temporary safety zone is necessary to ensure the safety of recreational watercraft and air show participants from the hazards associated with aerial displays as required by the Federal Aviation Administration. The combination of waterway distractions, and aerial displays, could easily result in serious injuries or fatalities. Establishing a temporary safety zone to control vessel movement through a portion of the Clinton River will help ensure the safety of persons and property at this event and help minimize the associated risk.

The temporary safety zone will encompass all waters approximately 4 miles West of the mouth of the Clinton River from a center point from the West at position 42°35.4' N, 082°50.3' W, and extending to the north and south shorelines of the Clinton River; from the East at center point position 42°35.8' N, 082°49.8' W to the north and south shorelines of the Clinton River. These coordinates are based upon North American Datum (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

**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 this rule under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security. We expect the economic impact of this proposed rule to be so

minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and therefore minor if any impacts to Mariners.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant 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.

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone is only in effect from 4:30 p.m. to 5:30 p.m. on July 24, 2003, from 4 p.m. to 5 p.m. on July 25, 2003, and from 2 p.m. to 3 p.m. on July 26, 2003. It is expected that effects on vessel traffic will be minimal due to the short duration of the event on each day. The event does not interfere with the commercial shipping lanes. Before the effective period, we will issue maritime advisories widely available to users of the Clinton River by the Ninth Coast Guard District Local Notice to Mariners, and Marine Information Broadcasts. Facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions