

provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

#### Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

#### Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions shall be done in accordance with McDonnell Douglas DC-8 Service Bulletin 57-85, Revision 1, dated July 5, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date

(h) This amendment becomes effective on November 20, 2003.

Issued in Renton, Washington, on October 7, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03-25869 Filed 10-15-03; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-02-108]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal, Chesapeake, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations that govern the operation of the Jordan (S337) bridge, the Gilmerton (US 13/460) bridge, and the Dominion Boulevard (US 17) bridge that all span the Southern Branch of the Elizabeth River, and the Centerville Turnpike (SR170) bridge across the Albemarle and Chesapeake Canal. The changes are necessary in order to relieve increased vehicular traffic congestion during weekday rush hours and to reduce traffic delays while still providing for the reasonable needs of navigation. The change will extend the morning and evening rush hour closure periods between one hour and one-half hour for the Jordan, Gilmerton and Dominion bridges and add rush hour schedule openings for the Centerville Turnpike bridge.

**DATES:** This rule is effective November 17, 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 (CGD05-02-108) and are available for inspection or copying at the Commander (oan-b), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23703-5004, between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Linda Bonenberger, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6227.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On February 12, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal, Chesapeake, VA" in the *Federal Register* (68 FR 7087). We received 84 written comments and two petitions on the proposed rule. No public hearing was requested nor held.

##### Background and Purpose

The Virginia Cut of the Atlantic Intracoastal Waterway (AICW) extends approximately 28 statute miles from the Southern Branch of the Elizabeth River to the North Landing River. General regulations governing the operation of bridges are set out in 33 CFR 117.1 through 117.49. Specific drawbridge regulations, which supplement the general regulations for certain AICW bridges, are set out in 33 CFR 117.997.

The City of Chesapeake (the City), through a Resolution submitted by the

Chesapeake City Council, requested changes to the existing regulations for the Jordan, Gilmerton, Dominion Boulevard and Centerville Turnpike bridges crossing the AICW, in order to balance the needs of mariners and motorists transiting in and around Chesapeake. Bridge openings at peak traffic hours during the weekdays cause considerable backups. The City is seeking to reduce the amount of vehicular traffic congestion during the weekday morning and evening rush hours. The City requested an additional change for the Dominion Boulevard bridge, from opening on signal to opening on the hour and half hour between peak traffic hours.

Recreational, public, and commercial vessels use the AICW. During the spring and fall months, the flow of recreational vessels is constant due to vessel owners that are referred to as "snowbirds". Owners of these recreational vessels are either transiting north to south towards a warmer climate in the fall or south to north towards a cooler climate in the spring and this can result in excessive bridge openings during the rush hour due to their numbers.

On February 12, 2003, a NPRM was published in the *Federal Register* (68 FR 7087) proposing changes to the Jordan, Gilmerton, and Dominion Boulevard bridges that all span the Southern Branch of the Elizabeth River and the Centerville Turnpike bridges across the Albemarle and Chesapeake Canal. As a result of this proposal, 84 comments and two petitions were received on the proposed changes. Based on all the information received, we have made no changes from the proposed schedules for the Jordan, Gilmerton and Centerville Turnpike Bridges. However, we have made changes to the final rule for the Dominion Boulevard Bridge.

#### Discussion of Comments and Changes

##### Jordan Bridge

The Coast Guard received 12 comments on the NPRM for the Jordan Bridge. Seven of the comments requested a change in the start of the morning rush hour closure period by a half-hour from 6:30 a.m. to 6 a.m. The Coast Guard reviewed the City's weekday road traffic counts that were conducted in 1996 and again in 2001. The rush hour traffic count for these years revealed that vehicular traffic starts around 6:30 a.m. during the weekday. The remaining five comments requested mid-point bridge openings for vessels at 7:30 a.m., during the morning closure period from 6:30 a.m. to 8:30 a.m., and 4:30 p.m., during the evening

closure period from 3:30 p.m. to 5:30 p.m. Based on the increased frequency of weekday vehicular traffic, as discussed in the NPRM, providing a mid-point bridge opening would undo the intent for reducing traffic congestion. The Coast Guard considered the comments, but has not changed the final rule.

#### *Gilmerton Bridge*

The Coast Guard received 10 comments on the NPRM for the Gilmerton Bridge. Two comments requested that vessel openings be provided only on the hour or half-hour between the morning and evening rush hours. The remaining eight comments requested an extension of the evening closure period. The Coast Guard reviewed the draw logs and believes the proposal is designed to balance the competing needs of vehicular and vessel traffic. The Coast Guard considered the comments, but has not changed the final rule.

#### *Dominion Boulevard Bridge*

The Coast Guard received 48 comments and two petitions on the NPRM for the Dominion Boulevard Bridge. Thirty-four comments requested changing the proposed opening schedule on the hour and half-hour between 8:30 a.m. and 5 p.m., Monday through Friday, except Federal holidays, to open every hour on the half-hour during this period.

The Great Bridge (S168) Bridge across the Albermarle and Chesapeake Canal at mile 12.0 located just south of the Dominion Boulevard Bridge provides drawbridge openings on the hour between 6 a.m. to 7 p.m., seven days a week, year round. The Great Bridge Locks, (the Locks) owned and operated by the U. S. Army Corps of Engineers, (the Army Corps) is located between the Dominion Boulevard and the Great Bridge (S168) Bridges. The Locks opens for vessels traveling south on demand between 7 a.m. to 6 p.m., seven days a week. In practice, the Locks close their gates near the quarter of the hour at which time the water level is raised. However, according to the Army Corps if a boater reaches the gates after they have been closed, the Army Corps will open the gates to allow the boater inside in order to avoid missing the hourly opening of the Great Bridge (S168) Bridge. After attaining the required water level, the gates are opened so boaters can continue their transit with the hourly opening schedule of the Great Bridge (S168) Bridge.

A study conducted on March 3, 1999, determined an average transiting time of mariners at each location along the

AICW between the Dominion Boulevard and the Great Bridge (S168) Bridges. A 41-foot Coast Guard (CG) Search and Rescue vessel assisted in the study. The Coast Guard vessel traveling at an average speed of 10 knots, determined to be the average speed of most AICW boaters, started at the Dominion Boulevard Bridge at approximately 10:13 a.m. Proceeding south of the Dominion Boulevard Bridge, the CG vessel arrived at the Locks at approximately 10:30 a.m. The Locks released the CG vessel at approximately 10:50 a.m. At 10:54 a.m., the CG vessel arrived in time for the scheduled hour opening of the Great Bridge (S168) Bridge. The CG vessel transiting time between the Dominion Boulevard and Great Bridge (S168) Bridges totaled 41 minutes. This total transit time included the 20 minutes the CG vessel waited for the Locks to open.

Based on the transit times, we have determined changing the regulations that govern the operation of the Dominion Boulevard Bridge to open every hour on the half-hour to coincide with the Great Bridge (S168) Bridge and the Locks will enable transient craft to reduce delays in navigating the AICW while also helping to ease vehicular traffic congestion. The bridge will open on signal for commercial vessels that provide a 2-hour advance notice and will open on demand at all times for commercial vessels carrying liquefied flammable gas or other hazardous materials. The final rule was changed to reflect these modifications.

The remaining 14 comments requested no vessel openings of the Dominion Boulevard Bridge during the morning and evening closure periods. The Coast Guard considered these comments, but has not changed the final rule.

Two petitions offered by local marinas requested a change to the proposed schedule between 8:30 a.m. and 5 p.m. Monday through Friday, except Federal holidays, from year-round to Memorial Day through Labor Day. The local marina owners also suggested that due to the high volume of "snowbirds" transiting the AICW, openings should be provided on signal before Memorial Day and after Labor Day for the safety of navigation.

The remaining comments indicate that road congestion starts at 4 p.m. versus 5 p.m. The final rule will maintain the current evening closure period from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays.

The Coast Guard considered these changes to be more efficient and safer to navigation and the final rule was changed to reflect these modifications.

#### **Centerville Turnpike Bridge**

The Coast Guard received 17 comments on the NPRM for the Centerville Turnpike bridge. The comments varied to change the half-hour opening proposal for recreational vessels between 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays to provide one and two hour openings. Based on the draw logs and traffic counts provided by the City, an additional restriction is unfair to the boating public and would be potentially hazardous to boaters. The Coast Guard considered the comments, but has not changed the final rule.

#### **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).

We reached this conclusion based on the fact that this rule will have only a minimal impact on maritime traffic transiting the bridges. Mariners can plan their transits in accordance with the scheduled bridge openings, to further minimize delay.

#### **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.

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 rule will not have a significant economic impact on a substantial number of small entities because the rule adds minimal restrictions to the movement of navigation, and mariners can plan their transits in accordance with the schedule bridge openings to minimize delay.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 process. In our notice of proposed rulemaking, 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 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 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.

#### 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 section 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 would not create an environmental risk to health or risk to safety that might 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 M16475.1D, 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.

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

Bridges.

■ For the 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; 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. In § 117.997 paragraphs (b)(1), (b)(2) introductory text, (b)(2)(i), (d)(1), (d)(2) introductory text, (d)(2)(i), (f) and (i) are revised to read as follows:

#### § 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to Albemarle and Chesapeake Canal.

\* \* \* \* \*

(b) \* \* \*

(1) Shall open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials.

(2) From 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays:

(i) Need not open for the passage of recreational or commercial vessels that do not qualify under paragraph (b)(2)(ii) of this section.

\* \* \* \* \*

(d) \* \* \*

(1) Shall open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials.

(2) From 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays:

(i) Need not open for the passage of recreational or commercial vessels that do not qualify under paragraph (d)(2)(ii) of this section.

\* \* \* \* \*

(f) The draw of the Dominion Boulevard (US 17) bridge, mile 8.8 in Chesapeake:

(1) Shall open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials.

(2) From 6:30 a.m. to 8:30 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays:

(i) Need not open for the passage of recreational or commercial vessels that do not qualify under paragraph (f)(2)(ii) of this section.

(ii) Need not open for commercial cargo vessels, including tugs, and tugs with tows, unless 2 hours advance notice has been given to the Dominion Boulevard bridge at (757) 547–0521.

(3) From Memorial Day to Labor Day, from 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw need be opened only every hour on the half-hour.

(4) If any vessel is approaching the bridge and cannot reach the draw exactly on the half hour, the drawtender may delay the opening up to ten minutes past the half hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(5) Shall open on signal at all other times.

\* \* \* \* \*

(i) The draw of the Centerville Turnpike (SR170) bridge across the Albemarle and Chesapeake Canal, mile 15.2, at Chesapeake:

(1) Shall open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials.

(2) From 6:30 a.m. to 8:30 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays:

(i) Need not open for the passage of recreational or commercial vessels that do not qualify under paragraph (i)(2)(ii) of this section.

(ii) Need not open for commercial cargo vessels, including tugs, and tugs with tows, unless 2 hours advance notice has been given to the Centerville Turnpike bridge at (757) 547-3632.

(3) From 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw need only be opened on the hour and half hour.

(4) If any vessel is approaching the bridge and cannot reach the draw exactly on the hour or half hour, the drawtender may delay the opening ten minutes past the hour or half hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(5) Shall open on signal at all other times.

Dated: October 3, 2003.

**Sally Brice-O'Hara,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-03-153]

RIN 1625-AA00

#### Safety/Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety/security zone at the Cove Point Liquefied Natural Gas (LNG) Terminal under 33 CFR 165.502. This is in response to the re-opening of the terminal by Dominion Power in July 2003. This safety and security zone is necessary to help ensure public safety and security. The zone will prohibit vessels and persons from entering a well-defined area of 500 yards in all directions around the Cove Point LNG Terminal.

**DATES:** This rule is effective from September 26, 2003, through January 5, 2004.

**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 [CG05-03-153] and are available for inspection or copying at Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Building 70, Port Safety, Security and Waterways Management Branch, Baltimore, Maryland, 21226-1791 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Dulani Woods, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576-2513.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On March 20, 2003, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled "Safety and Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, Maryland" (68 FR 13647). In it we proposed a permanent safety and security zone. We received six letters commenting on the proposed rule. And in response to a request for a public meeting, we announced a June 5, 2003 public meeting and reopened the comment period to June 12, 2003. (68 FR 26247, May 15, 2003).

On August 1, 2003, we published a temporary final rule (TFR) entitled "Safety and Security Zone; Cove Point Natural Gas Terminal, Chesapeake Bay, Maryland, to provide temporary protection while the rulemaking for the permanent rule was underway (68 FR 45165). That TFR expired September 26, 2003.

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 is currently reviewing the additional comments received during the re-opened comment period and public meeting and requires more time to develop the final rule based on these additional comments. The Coast Guard believes it is in the best interest of public safety to establish this temporary safety and security zone while it continues to consider comments that may affect the final rule.

##### Background and Purpose

In preparation for the re-opening of the LNG terminal at Cove Point, MD, the Coast Guard is evaluating the current safety zone established in 33 CFR 165.502. This safety zone was established during the initial operation of the terminal in 1979 and includes both the terminal and associated

vessels. To better manage the safety and security of the LNG terminal, this rule incorporates necessary security provisions and changes the size of the zone. This rule establishes a 500 yard combined safety zone and security zone in all directions around the LNG terminal at Cove Point.

Based on the September 11, 2001 terrorist attacks on the World Trade Center buildings in New York, NY and the Pentagon building in Arlington, VA, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Cove Point LNG Terminal. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Espionage Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) ("Magnuson Act"), section 104 of the Maritime Transportation Security Act of November 25, 2002, and by implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

##### Discussion of This Rule

This temporary final rule is identical to the previous TFR published in the **Federal Register** (68 FR 45165) on August 1, 2003. The Coast Guard was unable to publish an extension to that rule, but the practical effect of this new TFR is the same—to continue to provide a temporary safety and security zone in this area.

The Coast Guard is establishing a temporary safety and security zone on specified waters of the Chesapeake Bay near the Cove Point Liquefied Natural Gas Terminal to reduce the potential threat that may be posed by vessels or persons that approach the terminal. The zone will extend 500 yards in all directions from the terminal. The effect will be to prohibit vessels or persons entry into the safety and security zone, unless specifically authorized by the Captain of the Port, Baltimore, Maryland. Federal, state and local agencies may assist the Coast Guard in the enforcement of this rule.

##### Regulatory Evaluation

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