

is applicable for taxable years ending on or after May 11, 2004.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: May 4, 2004.

Gregory Jenner,

Acting Assistant Secretary of the Treasury.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-04-021]

RIN 1625-AA09

Drawbridge Operation Regulations; Stono River; Mile 11.0 at Johns Island, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations governing the operation of the Maybank Highway Bridge, Stono River mile 11.0, Johns Island, South Carolina. This rule is needed to provide for worker safety while preparations are made for the removal of the bridge. The bridge will open on signal, except that from 4 p.m. to 9 a.m., the bridge will remain closed to navigation unless a 12-hour notification is made to the bridge owner.

DATES: This rule is effective from May 11, 2004, until December 30, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD07-04-021 and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 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 Branch, at (305) 415-6744.

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, because the rule is needed to provide for worker

safety while preparations are made for the removal of the bridge.

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 **Federal Register** publication. The current bridge logs provide documentation that this bridge has not opened during the requested closure times. However, safety concerns arising from the bridge removal process require official closure of the bridge to navigation immediately. This rule provides provisions for vessels to transit through the bridge during the requested closure times.

Background and Purpose

The Maybank Highway Bridge, Stono River mile 11.0, Johns Island, South Carolina, is being replaced with a high-level fixed bridge.

The South Carolina Department of Transportation notified the Coast Guard on December 9, 2003, that the current operating schedule for this bridge does not meet the needs of the Department. On December 22, 2003, the owner of the bridge facsimiled the bridge logs to this office for documentation. The bridge logs indicated that, for the past six months, no bridge openings have been requested during nighttime hours. For the reasons stated above, the owner of the bridge requested that the regulations be changed to reflect the current operation of the bridge. The bridge will be required to open on signal from 9 a.m. to 4 p.m. every day. At all other times, an opening will be available if a 12-hour notice is provided to the bridge owner at 843-830-9297. In cases of emergency, the bridge will be opened as soon as possible.

Discussion of Rule

The draw of the Maybank Highway Bridge shall open on signal from 9 a.m. to 4 p.m. From 4 p.m. to 9 a.m., the bridge will remain closed to navigation unless a 12-hour advance notification is provided to the owner of the bridge at 843-830-9297. The draw shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

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). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The rule will not affect vessel traffic through this bridge, as no openings have been requested during the six months prior to this rule, and vessel traffic can make arrangements for a bridge opening during the closed periods.

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 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, because the regulations will not affect the current pattern of marine traffic through this bridge, yet still provide for the reasonable needs of navigation.

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 to the address under **ADDRESSES**. In your comment, explain 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 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

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 employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

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 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. Under figure 2-1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ 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 authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. From 9 a.m., May 11, 2004, until 9 a.m. on December 30, 2004, § 117.937 is suspended and new § 117.T940 is added as follows:

§ 117.T940 Stono River, mile 11.0 at Johns Island, SC.

The draw of the Maybank Highway Bridge shall open on signal from 9 a.m. to 4 p.m. From 4 p.m. to 9 a.m. the bridge will remain closed to navigation unless a 12-hour advance notification is provided to the owner of the bridge at 843-830-9297. The draw shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

Dated: April 30, 2004.

Harvey E. Johnson, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 04-10635 Filed 5-10-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-03-025]

RIN 1625-AA00

Safety Zone; Coast Guard Station Fire Island, Fire Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters adjacent to Coast Guard Station Fire Island, Fire Island, New York. This zone ensures safety of the boating community and Coast Guard vessels when prompt response is needed for Coast Guard vessels to respond to mariners' or other requests for assistance. This zone excludes all vessels from operating within the prescribed safety zone without first obtaining authorization from the Captain of the Port, Long Island Sound.

DATES: This rule is effective May 15, 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 CGD01-03-025 and are available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant A. Logman, Waterways Management Officer, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468-4429.

SUPPLEMENTARY INFORMATION: