

2. Review of a Department of Energy remedial order:

*Amount in Controversy*

\$0–9,999. (18 CFR 381.303(b))—\$100  
 \$10,000–29,999. (18 CFR 381.303(b))—\$600  
 \$30,000 or more. (18 CFR 381.303(a))—\$27,860

3. Review of a Department of Energy denial of adjustment:

*Amount in Controversy*

\$0–9,999. (18 CFR 381.304(b))—\$100  
 \$10,000–29,999. (18 CFR 381.304(b))—\$600  
 \$30,000 or more. (18 CFR 381.304(a))—\$14,610

4. Written legal interpretations by the Office of General Counsel.  
 (18 CFR 381.305(a))—\$5,470

**Fees Applicable to Natural Gas Pipelines**

1. Pipeline certificate applications pursuant to 18 CFR 284.224. (18 CFR 381.207(b))—\$1,000 \*

**Fees Applicable to Cogenerators and Small Power Producers**

1. Certification of qualifying status as a small power production facility. (18 CFR 381.505(a))—\$16,410  
 2. Certification of qualifying status as a cogeneration facility. (18 CFR 381.505(a))—\$18,580  
 3. Applications for exempt wholesale generator status. (18 CFR 381.801)—\$840

**List of Subjects in 18 CFR Part 381**

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

**Thomas R. Herlihy,**  
*Executive Director.*

■ In consideration of the foregoing, the Commission amends Part 381, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

**PART 381—FEES**

■ 1. The authority citation for Part 381 continues to read as follows:

**Authority:** 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

**§ 381.302 [Amended]**

■ 2. In 381.302, paragraph (a) is amended by removing “\$19,040” and adding “\$19,090” in its place.

**§ 381.303 [Amended]**

■ 3. In 381.303, paragraph (a) is amended by removing “\$27,800” and adding “\$27,860” in its place.

**§ 381.304 [Amended]**

■ 4. In 381.304, paragraph (a) is amended by removing “\$14,580” and adding “\$14,610” in its place.

**§ 381.305 [Amended]**

■ 5. In 381.305, paragraph (a) is amended by removing “\$5,460” and adding “\$5,470” in its place.

**§ 381.403 [Amended]**

■ 6. Section 381.403 is amended by removing “\$9,480” and adding “\$9,500” in its place.

**§ 381.505 [Amended]**

■ 7. In 381.505, paragraph (a) is amended by removing “\$16,370” and adding “\$16,410” in its place and by removing “\$18,540” and adding “\$18,580” in its place.

**§ 381.801 [Amended]**

■ 8. Section 381.801 is amended by removing “\$870” and adding “\$840” in its place.

[FR Doc. 04–11052 Filed 5–14–04; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD05–03–168]

**RIN 1625-AA09**

**Drawbridge Operation Regulation; Chincoteague Channel, Chincoteague, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Commander, Fifth Coast Guard District, is changing the regulations that govern the operation of the SR 175 drawbridge across the Chincoteague Channel, mile 3.5, at Chincoteague, Virginia. These regulations are necessary to facilitate public safety during the Annual Pony Swim. This rule will change the drawbridge operation schedule by allowing the Chincoteague Channel Bridge to remain in the closed position from 7 a.m. to 5 p.m. on the last Wednesday and Thursday in July of every year.

**DATES:** This rule is effective June 16, 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 (CGD05–03–168) and are available for inspection or copying at Commander (obr), 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 L. Bonenberger, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6227.

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

On January 13, 2004, we published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulation; Chincoteague Channel, Chincoteague, VA” in the **Federal Register** (69 FR 1958). We received no comments on the proposed rule. No public hearing was requested nor held.

**Background and Purpose**

The Town of Chincoteague requested a change from the current operating regulation set out in 33 CFR 117.5 that requires the drawbridge to open promptly and fully for the passage of vessels when a request to open is given.

The purpose of this rule is to accommodate the Pony Swim across the Assateague Channel between Assateague Island and Chincoteague Island that takes place every year on the last Wednesday and Thursday in July. The herd is owned by the Chincoteague Volunteer Fire Department and managed by the National Park Service. This annual event began in the 1700’s, but in 1925 the Fire Department took over the event that is also referred to as the Chincoteague Volunteer Fireman’s Carnival. The proceeds from the auctioning of the ponies provide a source of revenue for the fire company and it also serves to trim the herd’s numbers. On Wednesdays, the ponies are led across the Assateague Channel from Assateague Island to Chincoteague where they are auctioned off. On Thursdays, the remaining ponies are led back across the channel to Assateague Island.

Due to the high volume of spectators that attend this yearly event, it is necessary to close the draw span on each of these days between the hours of 7 a.m. to 5 p.m. to reduce vehicular traffic congestion on this small island as a result of drawbridge openings.

This rule will require the Chincoteague Channel Bridge to remain

\* This fee has not been changed.

in the closed position each year from 7 a.m. to 5 p.m. on the last Wednesday and Thursday of July.

Since the Pony Swim is a well-known annual event, and is publicly advertised, vessel operators can arrange their transits to minimize any impact caused by the closure. Vessel operators with mast heights lower than 15 feet still can transit through the drawbridge across Chincoteague Channel during this event since only the bridge is closed and not the waterway. The Atlantic Ocean is the only alternate route for vessels with a mast height greater than 15 feet.

#### Discussion of Comments and Changes

The Coast Guard received no comments on the NPRM for the Chincoteague Channel Bridge and no changes are being made to this 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 expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This conclusion was based on the fact that this rule will have a very limited impact on maritime traffic transiting this area. Since the Chincoteague Channel will remain open to navigation during this event, mariners with mast height less than 15 feet may still transit through the bridge and vessels with mast heights greater than 15 feet can use the Atlantic Ocean to the west or transit after the closed hours.

#### 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 even though the rule closes the Chincoteague Channel bridge to mariners, those with mast heights less than 15 feet will still be able to transit through the bridge during the closed hours and mariners whose mast heights are greater than 15 feet will be able to use the Atlantic Ocean as an alternate route or transit after the closed hours.

#### 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule would 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 will 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 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 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. Allowing the draw to remain closed for the brief times indicated on only the last Wednesday and Thursday of July of each year would have no individually or cumulatively significant impact on the environment.

**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 the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. § 117.1005 is added to read as follows:

**§ 117.1005 Chincoteague Channel**

The draw of the SR 175 bridge, mile 3.5 at Chincoteague need not open for the passage of vessels from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July of every year.

Dated: May 5, 2004.

**Ben R. Thomason, III,**

*Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 04–11150 Filed 5–14–04; 8:45 am]

**BILLING CODE 4910–14–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD09–04–009]

RIN 2115–AA00

**Security Zone; Cleveland Harbor, Cleveland, OH**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in Cleveland's inner harbor for the Ninth District Commander's change of command ceremony. The security zone is necessary to ensure the security of dignitaries attending this ceremony on May 21, 2004. The security zone is intended to restrict vessels from a portion of Cleveland Harbor in Cleveland, Ohio.

**DATES:** This rule is effective from noon (local) until 3 p.m., May 21, 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 [CGD09–04–009] and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44114, between the hours of 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at (216) 937–0128.

**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. The exact date of the event was not known with sufficient time to allow for the publication of an NPRM followed by an effective date before the event. Any delay in the effective date of the event could pose unnecessary risks to those dignitaries attending the event.

**Background and Purpose**

The security zone will encompass all waters of Cleveland Harbor south of a line drawn from the northeast corner of Voinovich Park (41°30'40.5" N, 081°41'47.5" W) to the northwest corner of Burke Lakefront Airport (41°30'48.5" N, 081°41'37" W). These coordinates are based upon North American Datum (NAD 1983).

Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Cleveland or his designated on-scene representative. The designated on-scene representative will be the Coast Guard Patrol Commander. The Coast Guard Patrol Commander 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, 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 security zone will only be in effect for a few hours on the day of the event and vessels may easily still transit inside the Cleveland Harbor breakwall.

**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 affect the following entities: The owners or operators of vessels intending to transit or anchor in this portion of Cleveland Harbor from noon (local) to 3 p.m. on May 21, 2004. This regulation will not have a significant economic impact for the following reasons. The regulation is only in effect for one day of the event. The designated area is being established to allow for maximum use of the waterway for commercial and recreational vessels. The Coast Guard will inform the public that the regulation is in effect via Marine Information Broadcasts.

**Assistance for Small Entities**

Under Section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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 U.S. 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**

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.