

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 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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

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.

■ 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.

§ 117.300 [Redesignated]

■ 2. Redesignate § 117.300 as § 117.299.

■ 3. Add a new § 117.300 to read as follows:

§ 117.300 Manatee River.

The draw of the CSX Railroad Bridge across the Manatee River, mile 4.5 Bradenton, operates as follows:

- (a) The bridge is not tended.
- (b) The draw is normally in the fully open position, displaying green lights to indicate that vessels may pass.
- (c) As a train approaches, provided the scanners do not detect a vessel under the draw, the lights change to flashing red and a horn continuously sounds while the draw closes. The draw remains closed until the train passes.

(d) After the train clears the bridge, the lights continue to flash red and the horn again continuously sounds while the draw opens, until the draw is fully open and the lights return to green.

Dated: July 8, 2004.

W.E. Justice,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 04-16246 Filed 7-16-04; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-04-014]

RIN 1625-AA09

Drawbridge Operation Regulations; Socastee River (SR 544), Atlantic Intracoastal Waterway, Mile 371, Horry County, SC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations governing the operation of the Socastee (SR 544) Swing Bridge across the Atlantic Intracoastal Waterway, mile 371, Horry County, SC. This rule will require the bridge to open on signal.

DATES: This rule is effective August 18, 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 [CGD07-04-014] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Bridge Branch (obr), Seventh Coast Guard District, maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Manager, Seventh Coast Guard District, Bridge Branch, (305) 415-6743.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 4, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Socastee River (SR 544), Atlantic Intracoastal Waterway, Mile 371, Horry County, SC, in the **Federal Register** (69 FR 10182). We received no comments on the proposed rule. No

public meeting was requested and none was held.

Background and Purpose

The South Carolina Department of Transportation requested that the Coast Guard remove the existing regulations governing the operation of the Socastee (SR 544) Swing Bridge and allow the bridge to open on signal. The request was made due to the close proximity of a new high-level fixed bridge. The majority of vehicular traffic in the area currently utilizes the high-level fixed bridge.

The Socastee (SR 544) Swing Bridge is located on the Atlantic Intracoastal Waterway, mile 371, Horry County, SC. The current regulation governing the operation of the Socastee (SR 544) Swing Bridge is published in 33 CFR 117.911(b) and requires the bridge to open on signal; except that, from April 1 through June 30 and October 1 through November 30 from 7 a.m. to 10 a.m. and 2 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need open only on the quarter and three-quarter hour. From May 1 through June 30 and October 1 through October 31 from 10 a.m. to 2 p.m., Saturdays, Sundays and Federal holidays, the draw need open only on the quarter and three-quarter hour.

Discussion of Comments and Changes

We received no comments on the NPRM. This change will allow vessels to pass through the bridge on signal. The majority of vehicular traffic that utilized this bridge now utilizes the new high-level fixed bridge, which is adjacent to the swing bridge.

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 is unnecessary. The rule improves vessel traffic through the bridge; while vehicular traffic is utilizing a newly constructed high-level fixed bridge nearby.

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.

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 could better evaluate its effects on them and participate in the rulemaking. The Coast Guard offered small businesses, organizations, or governmental jurisdictions that believed the rule would affect them, or that had questions concerning its provisions or options for compliance, to 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 will 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 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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use

voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

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.

■ 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.

§ 117.911 [Amended]

■ 2. In § 117.911 remove and reserve paragraph (b).

Dated: July 8, 2004.

W.E. Justice,

*Captain, U.S. Coast Guard, Acting,
Commander, Seventh Coast Guard District.*
[FR Doc. 04–16245 Filed 7–16–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–04–076]

Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain closed from July 26 to July 31, August 2 to August 7, and August 9 to August 14, 2004, to facilitate necessary bridge maintenance.

DATES: This deviation is effective from July 26, 2004 through August 14, 2004.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate rehabilitation repairs at the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from July 26 to July 31, August 2 to August 7, and August 9 to August 14, 2004.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: July 7, 2004.

David P. Pekoske,

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

[FR Doc. 04–16244 Filed 7–16–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–04–116]

RIN 1625–AA87

Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone at the North Carolina State Port Authority (NCSPA), Wilmington, to include the Cape Fear River and Eagle Island. Entry into or movement within the security zone will be prohibited without authorization from the COTP. This action is necessary to safeguard the vessels and the facility from sabotage, subversive acts, or other threats.

DATES: This rule is effective from June 13, 2004, until November 7, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–116 and are available for inspection or copying at the Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401 between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Charles A. Roskam II, Chief Port Operations (910) 772–2200 or toll free (877) 229–0770.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. The Coast Guard is promulgating this security zone regulation to protect NCSPA Wilmington and the surrounding vicinity from threats to national security. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice-and-comment rulemaking and publication at least 30 days before the effective date of the rule are not required for this regulation.

Background and Purpose

Vessels frequenting the North Carolina State Port Authority (NCSPA) Wilmington facility serve as a vital link in the transportation of military munitions, explosives, equipment, and personnel in support of Department of Defense missions at home and abroad. This vital transportation link is