

**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. 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.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 because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

**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. In § 117.237 redesignate paragraphs (b) through (d) as paragraphs (c) through (e), add a new paragraph (b), and revise newly redesignated paragraph (d) to read as follows:

**§ 117.237 Christina River.**

\* \* \* \* \*

(b) The draw of the Norfolk Southern Railroad Bridge, mile 1.4 at Wilmington, shall operate as follows:

(1) The draw shall remain in the open position for navigation. The draw shall only be closed for train crossings or periodic maintenance authorized in accordance with subpart A of this part.

(2) The bridge shall be operated by the controller at the Harrisburg, PA Dispatcher's Office. The controller shall monitor vessel traffic with closed circuit cameras and infrared sensors covering the swing radius. Operational information will be provided 24 hours a day on marine channel 13 and via telephone (717) 541-2140.

(3) The bridge shall not be operated from the remote location in the following events: Failure or obstruction of the infrared sensors, closed-circuit cameras or marine-radio communications, or anytime controller's visibility is inhibited. In these situations, a bridge tender with Norfolk Southern must be called and on-site within 30 minutes.

(4) Before the bridge closes for any reason, the remote operator will monitor waterway traffic in the area. The bridge shall only be closed if the off-site remote operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area. While the bridge is moving, the operator shall maintain constant surveillance of the navigation channel.

(5) Before closing the draw, the channel traffic lights would change from flashing green to flashing red, the horn will sound five short blasts, and an audio voice warning stating, "Attention, Attention. Norfolk Southern Railroad Bridge over Christina River at milepost 1.4 will be closing to river traffic." Five short blasts of the horn will continue until the bridge is seated and locked down to vessels. The channel traffic lights will continue to flash red.

(6) When the rail traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate the draw is opening to vessel traffic.

During the opening swing movement, the channel traffic lights would flash red until the bridge returns to the fully open position. In the full open position to vessels, the bridge channel lights will flash green followed by an announcement stating, "Security, security, security. Norfolk Southern Railroad Bridge over Christina River at mile 1.4 is open for river traffic." Vessels shall stay clear of both channels as to not interfere with infrared detectors, until green lights are displayed on the swing span.

(c) \* \* \*

(d) The draws of the Norfolk Southern Railroad bridges, at miles 4.1 and 4.2, both at Wilmington, shall open on signal from 6 a.m. to 8 p.m. if at least 24 hours notice is given. From 8 p.m. to 6 a.m., the draws need not be opened for the passage of vessels.

\* \* \* \* \*

Dated: January 20, 2005.

**Sally Brice-O'Hara,**  
*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 05-1660 Filed 1-27-05; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD07-04-108]

RIN 1625-AA09

**Drawbridge Operation Regulations; Biscayne Bay, Atlantic Intracoastal Waterway, Miami River, and Miami Beach Channel, Miami-Dade County, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the regulations governing the operation of the east and

west spans of the Venetian Causeway bridges across the Miami Beach Channel on the Atlantic Intracoastal Waterway, the Miami Avenue bridge and the Brickell Avenue bridge across the Miami River, Miami-Dade County. This temporary rule allows these bridges to remain in the closed position during the running of the Miami Tropical Marathon on January 30, 2005.

**DATES:** This temporary rule is effective from 6:05 a.m. until 12:05 p.m. on January 30, 2005.

**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 [CGD07-04-108] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131-3050, 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. Gwin Tate, Project Manager, Seventh Coast Guard District, Bridge Branch, (305) 415-6747.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On November 30, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Biscayne Bay, Atlantic Intracoastal Waterway, Miami River, and Miami Beach Channel, Miami-Dade County, FL in the **Federal Register** (69 FR 69561). We received no comments on this proposed rule. No public hearing was requested, and none was held.

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**. No changes were made to the proposed regulatory text. The event for which the rule is necessary is scheduled to occur less than 30 days from the date of publication. Therefore, waiting an additional 30 days from the date of publication to make this rule effective is both unnecessary and impracticable.

##### Background and Purpose

The Miami Marathon Director requested that the Coast Guard temporarily change the existing regulations governing the operation of the east and west spans of the Venetian Causeway bridges, the Brickell Avenue bridge and the Miami Avenue bridge to allow them to remain in the closed position during the running of the Miami Tropical Marathon on Sunday,

January 30, 2005. The closure times range from 6:05 a.m. through 12:05 p.m. The marathon route will pass over these four bridges and any bridge opening would disrupt the race. Based on the limited amount of time the bridges will be closed, the proposed rule will still provide for the reasonable needs of navigation on the day of the event.

The east and west spans of the Venetian Causeway bridges are located between Miami and Miami Beach. The current regulation governing the operation of the east span of the Venetian Causeway bridge is published in 33 CFR 117.269 and requires the bridge to open on signal; except that, from November 1 through April 30 from 7:15 a.m. to 8:45 a.m. and from 4:45 p.m. to 6:15 p.m. Monday through Friday, the draw need not open. However, the draw opens at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m., if any vessels are waiting to pass. The draw opens on signal on Thanksgiving Day, Charistmas Day, New Year's Day and Washington's Birthday. The draw opens at anytime for public vessels of the United States, tugs with tows, regularly scheduled cruise vessels, and vessels in distress.

The regulation governing the west span of the Venetian Causeway bridge is published in 33 CFR 117.261(j)(4)(nn) and requires the bridge to open on signal; except that, from November 1 through April 30, Monday through Friday except Federal holidays, from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., that the draw need open only on the hour and the half-hour.

The regulation governing the Miami Avenue bridge, mile 0.3, at Miami, is published at 33 CFR 117.305(c) and requires that the bridge open on signal; except that, from 7:35 a.m. to 8:59 a.m., 12:05 p.m. to 12:59 p.m. and 4:35 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels.

The regulation governing the draw of the Brickell Avenue bridge, mile 0.1. at Miami, is published in 33 CFR 117.305(d) and requires that the bridge open on signal; except that, from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the draw need open only on the hour and half-hour. From 7:35 a.m. to 8:59 a.m., 12:05 p.m. to 12:59 p.m. and 4:35 p.m. to 5:59 p.m., Monday through Friday except Federal holidays, the draw need not open for the passage of vessels.

This temporary rule will not adversely affect the reasonable needs of navigation due to the short duration that the bridges will be in the closed position.

##### Discussion of Comments and Changes

No comments were received in response to the notice of proposed rulemaking and there were no changes made to the proposed regulatory text.

##### 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 temporary rule to be so minimal that a full Regulatory Evaluation is unnecessary. The short duration of time during the morning of January 30, 2005, that the bridges will remain in the closed position to facilitate the running of the marathon will have little, if any, economic impact. This rule was preceded by a notice of proposed rulemaking and no comments were received.

##### 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 owners or operators of vessels that will require passage through these bridges during the morning hours of January 30, 2005. These vessels will not be able to pass through these bridges during the effective times of this rule. A notice of proposed rulemaking was published for this rule. No comments were received and no changes were made to the proposed regulatory text. Due to the limited effective times of this rule and the nominal amount of marine traffic expected during the early and late morning hours on a Sunday at this time of year, this rule would 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 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 proposed 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 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 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. This rule fits within paragraph (32)(e) because it pertains to operation regulations for drawbridges. 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; section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 6:15 a.m. until 9:20 a.m. on January 30, 2005, in § 117.261, paragraph (nn) is suspended and a new paragraph (tt) is added to read as follows:

#### § 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

\* \* \* \* \*

(tt) *West Span of the Venetian Causeway, mile 1088.6 at Miami.* The draw need not open from 6:15 a.m. until 9:20 a.m. on January 30, 2005. Public vessels of the United States and vessels in distress shall be passed at any time.

■ 3. From 6:05 a.m. until 8:40 a.m. on January 30, 2005, in § 117.269, temporarily designate the existing regulatory text as paragraph (a); suspend paragraph (a); and add a new paragraph (b) to read as follows:

#### § 117.269 Biscayne Bay.

\* \* \* \* \*

(b) The draw of the east span of the Venetian Causeway bridge across Miami Beach Channel need not open from 6:05

a.m. to 8:40 a.m. on January 30, 2005. Public vessels of the United States and vessels in distress shall be passed at any time.

■ 4. From 6:25 a.m. until 10 a.m. on Sunday, January 30, 2005, in § 117.305, paragraphs (c) and (d) are suspended and new paragraphs (e) and (f) are added to read as follows:

**§ 117.305 Miami River.**

\* \* \* \* \*

(e) The draw of each bridge from the mouth of the Miami River, to and including the NW. 27th Avenue bridge, mile 3.7 at Miami, except the Miami Avenue and Brickell Avenue bridges, shall open on signal.

(f) The Miami Avenue bridge, across the Miami River, need not open from 6:25 a.m. to 10 a.m. on Sunday, January 30, 2005, and the Brickell Avenue bridge, across the Miami River, need not open 7:10 a.m. to 12:05 p.m. on Sunday, January 30, 2005. Public vessels of the United States and vessels in an emergency involving danger to life or property shall be passed at any time.

Dated: January 11, 2005.

**D. Brian Peterman,**

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

[FR Doc. 05-1659 Filed 1-27-05; 8:45 am]

**BILLING CODE 4910-15-M**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD01-05-004]

**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 on the following days: February 14 through February 15; February 24 through February 25; March 3 through March 4; March 10 through March 11; March 17 through March 18; and March 24 through March 25, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

**DATES:** This deviation is effective from February 14, 2005, through March 25, 2005.

**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 on the following days: February 14 through February 15; February 24 through February 25; March 3 through March 4; March 10 through March 11; March 17 through March 18; and March 24 through March 25, 2005.

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: January 21, 2005.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 05-1658 Filed 1-27-05; 8:45 am]

**BILLING CODE 4910-15-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R05-OAR-2004-MI-0003; FRL-7865-2]

**Approval and Promulgation of Maintenance Plan Revisions; Michigan**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a December 19, 2003 request from Michigan for a State Implementation Plan (SIP) revision of the Southeast Michigan carbon monoxide (CO) maintenance plan. The CO maintenance plan revision establishes a new on-road emissions inventory for the years 1996 and 2010. The revision also establishes a new transportation conformity motor vehicle emissions budget (MVEB) for the year

2010. The emission inventory and MVEB updates are designed to maintain the National Ambient Air Quality Standards (NAAQS) for CO as required by the Clean Air Act (CAA).

**DATES:** This rule is effective on March 29, 2005, unless EPA receives adverse written comments by February 28, 2005. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2004-MI-0003, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*Agency Web site:* <http://docket.epa.gov/rmepub/>. Regional RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

*E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

*Fax:* (312)886-5824.

*Mail:* You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

*Hand delivery:* Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to RME ID No. R05-OAR-2004-MI-0003. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity