

Under section 97.27 effective for 1 Sep 2005 which is hereby correcting the Airport Name to read as follows:

Sacramento, CA, Sacramento Executive, NDB RWY 2, Amdt 9, CANCELLED

The FAA published an Amendment in Docket No. 30452, Amdt No. 3128 to Part 97 of the Federal Aviation Regulations (Vol. 70, FR No. 155, page 47092, dated 12 Aug 2005) Under section 97.27 effective for 1 Sep 2005 which is hereby correcting the City Name to read as follows:

Whitefield, NH, Mount Washington Regional, NDB RWY 10, Amdt 8, CANCELLED

The FAA published an Amendment in Docket No. 30452, Amdt No. 3128 to Part 97 of the Federal Aviation Regulations (Vol. 70, FR No. 155, page 47091, dated 12 Aug 2005) Under section 97.27 effective for 1 Sep 2005 which is hereby rescinding the Cancellation in its entirety:

Chandler, AZ, Chandler Muni, NDB RWY 4R, Orig-A, CANCELLED

The FAA published an Amendment in Docket No. 30452, Amdt No. 3128 to Part 97 of the Federal Aviation Regulations (Vol. 70, FR No. 155, page 47093, dated 12 Aug 2005) Under section 97.29 effective for 1 Sep 2005 which are hereby corrected to be effective for 27 Oct 2005:

Providence, RI, Theodore Francis Green State, ILS OR LOC RWY 5, Amdt 19

The FAA published an Amendment in Docket No. 30452, Amdt No. 3128 to Part 97 of the Federal Aviation Regulations (Vol. 70, FR No. 155, page 47092, dated 12 Aug 2005) Under section 97.27 effective for 1 Sep 2005 which is hereby corrected to read:

St. Petersburg-Clearwater, Fl, St. Petersburg-Clearwater Intl, NDB RWY 17L, Amdt 20C, CANCELLED

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05-05-041]

RIN 1625-AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, South Branch of the Elizabeth River, Chesapeake, VA

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comment.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Dominion Boulevard (US 17) Bridge across the Southern Branch of the Elizabeth River, at Atlantic Intracoastal Waterway (AICW) mile 8.8, at Chesapeake, Virginia. This rule will

change the morning rush hour closure period so that it starts at 7 a.m. and ends at 9 a.m. From 9 a.m. to 4 p.m., Monday through Friday, and from 7 a.m. to 6 p.m. on Saturdays, Sundays and Federal holidays, the draw need be opened every hour on the hour. This change is necessary to relieve vehicular traffic congestion and reduce traffic delays during weekday rush hour periods, and on weekends and Federal holidays, while still providing for the reasonable needs of navigation.

DATES: This rule is effective September 19, 2005. Comments and related material must reach the Coast Guard on or before October 3, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of docket number CGD05-05-041 and will be available for inspection or copying at Commander (obr), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-05-041), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment period. We may change this interim rule in view of them.

Regulatory History

The Coast Guard published in the **Federal Register** a temporary 90-day deviation and request for comments from the drawbridge operation regulations in an effort to test an alternate drawbridge operation schedule

and to solicit comments from the public (69 FR 75472, Dec. 17, 2004). The deviation was in effect from December 13, 2004 to March 13, 2005, and from 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw was opened only every hour on the half hour. Fifty-two e-mail messages and 4 on-paper responses were received during the comment period that ended March 14, 2005.

On May 10, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Elizabeth River, Southern Branch, VA" in the **Federal Register** (70 FR 24492). We received 690 comments on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

Current regulations require the Dominion Boulevard (US 17) Bridge across the Southern Branch of the Elizabeth River, at AICW mile 8.8, to open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials. 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, the draw need not open for the passage of recreational vessels and the draw need not open for commercial cargo vessels carrying non-hazardous material that do not provide a 2-hour advance notice. In addition, from Memorial Day to Labor Day, from 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw is opened only every hour on the half-hour.

On December 17, 2004, we published a notice of temporary deviation from the regulations and request for comments entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Elizabeth River, Southern Branch, VA" in the **Federal Register** (69 FR 75472). The temporary deviation was an effort to test an alternate drawbridge operation schedule for 90 days and to solicit comments from the public. In accordance with the temporary deviation, from December 13, 2004 to March 13, 2005, from 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw was opened only every hour on the half hour.

The Coast Guard received 52 e-mail messages and 4 on-paper responses commenting on the provisions of the temporary deviation. The majority of the comments, from motorists, favored scheduled versus unscheduled bridge openings, so they could better plan their movements. Many respondents

indicated that even though the vehicular rush hour traffic starts at 6:30 a.m., the weekday rush hour traffic peaks between 7 a.m. and 9 a.m. In addition, they stated a preference that commercial vessels carrying non-hazardous materials be regulated. However, since tugs and tugs with tows have no place to tie up in the proximity of the bridge in order to wait for a bridge opening, the Coast Guard will continue to include them in the 2-hour advance notice requirement.

The NPRM, which was published on May 10, 2005, proposed on-signal openings for commercial vessels carrying hazardous materials and for commercial vessels that provide a two-hour advance notice. In addition, the NPRM proposed that year-round from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw need be opened every hour on the hour; from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday to Friday, except Federal holidays, the draw need not open for recreational vessels, and need not open for commercial vessels carrying non-hazardous material that do not provide a 2-hour advance notice.

After publication of the proposal, we received 690 comments from the public. The majority of respondents favored scheduled openings of the drawbridge year-round between the morning and evening rush hour periods.

This interim rule, when implemented, will ease vehicle traffic congestion which results from unscheduled openings of the drawbridge. In addition, this interim rule changes the morning rush hour period so that it starts at 7 a.m. and ends at 9 a.m., Monday to Friday, except Federal holidays. Therefore, the first drawbridge opening for vessels after the morning rush hour will occur at 9 a.m. and the last opening before the evening rush hour will be at 4 p.m. The Dominion Boulevard Bridge will open for vessels every hour on the hour between 9 a.m. and 4 p.m., Monday through Friday and from 7 a.m. to 6 p.m. on Saturdays, Sundays and Federal holidays.

These changes will coincide with the operation of the Great Bridge (S168) and the Great Bridge Locks (the Locks) and enable transient craft to reduce delays in navigating the AICW, while also helping to ease vehicular traffic congestion. These changes to the bridge operating regulations are reasonable because the interim rule will relieve vehicular traffic congestion and reduce traffic delays between weekday rush hour periods, and on weekends and Federal holidays, while still providing for the reasonable needs of navigation.

Discussion of Comments and Changes

The Coast Guard received 690 responses to the NPRM. The vast majority of those comments (approximately 647) were supplied from an internet Web site survey posted by the City of Chesapeake. The other responses were supplied by 24 on-paper comments; 17 e-mails and 2 resolutions (1 from the Virginia State Legislators, and the other from the City Council for the City of Chesapeake).

An examination of the comments revealed that most of the respondents (about 60 percent), during the weekday, use their vehicles on the bridge in the morning between 7 a.m. to 8 a.m. and over 60 percent of the motoring public crosses the Dominion Boulevard Bridge on the weekends. Also, mariners in general suggested that if the Dominion Boulevard Bridge must open only once each hour, that an on the hour opening would be better.

Additionally, the City of Chesapeake (hereinafter the City) which owns and operates the drawbridge submitted a City Council resolution that offered changes to the proposed regulation. The City asserts that since traffic volumes on the weekends on Dominion Boulevard average around 24,000 vehicles per day compared with approximately 30,000 vehicles on weekdays, that the Coast Guard should consider restricting drawbridge openings on weekends from 6 a.m. to 7 p.m. to every hour on the hour with no rush hour restrictions and also maintain the existing weekday morning rush hour period from 6:30 a.m. to 8:30 a.m.

The Coast Guard examined the operation of the Great Bridge (S168) across the Albemarle and Chesapeake at AICW mile 12.0 and the Locks located just south of the Dominion Boulevard Bridge. The Great Bridge (S168) provides vessel openings on the hour between 6 a.m. to 7 p.m., seven days a week, year-round. The Locks, owned and operated by the U.S. Army Corps of Engineers, opens for vessels on demand from 7 a.m. to 6 p.m.

As a result of comments received, changes were made to the NPRM and this interim rule will relieve vehicular traffic congestion and reduce traffic delays between weekday rush hour periods, and on weekends and Federal holidays, while still providing for the reasonable needs of navigation.

The Coast Guard amends 33 CFR § 117.997(g), by revising paragraphs (g)(2) through (g)(4). Paragraph (g)(2) modifies the morning closure period during rush hour to 7 a.m. to 9 a.m., Monday through Friday, except Federal holidays. Paragraph (g)(3) would delete

the phrase "From Memorial Day to Labor Day" and modify the paragraph to read "From 9 a.m. to 4 p.m., Monday through Friday, and from 7 a.m. to 6 p.m. on Saturdays, Sundays and Federal holidays, the draw need only be opened every hour on the hour. During these hours, the draw will continue to open on signal for commercial vessels carrying liquefied flammable gas or other hazardous materials, and for commercial cargo vessels not carrying hazardous materials, including tugs and tugs with tows, when notice has been given at least 2 hours in advance." Paragraph (g)(4) would replace the wording from "on the half hour" to "on the hour".

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).

This conclusion is based on the fact that the changes will have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their transits in accordance with the scheduled bridge openings to minimize delays.

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 would not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the rule adds only minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the scheduled bridge openings minimize delays.

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 this rule so that they could better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

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 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 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 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.

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. Revise section 117.997, paragraphs (g)(2), (g)(3), and (g)(4), to read as follows:

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

* * * * *

(g) * * *

(1) * * *

(2) From 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, need not open for the passage of recreational vessels, and need open for commercial cargo vessels not carrying hazardous materials, including tugs and tugs with tows, only when notice has been given at least 2 hours in advance to the Dominion Boulevard Bridge at (757) 547–0521.

(3) From 9 a.m. to 4 p.m., Monday through Friday, and from 7 a.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draw need only be opened every hour on the hour. During these hours, the draw will continue to open on signal for commercial vessels carrying liquefied flammable gas or other hazardous materials, and for commercial cargo vessels not carrying hazardous materials, including tugs and tugs with tows, when notice has been given at least 2 hours in advance.

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

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Dated: August 11, 2005.

L.L. Hereth,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

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