

Exclusion Determination" are not required for this rule.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary section, § 100.35–T05–025 to read as follows:

#### § 100.35–T05–025 Mill Creek, Hampton, VA.

(a) *Regulated area.* The regulated area is established for the waters of Mill Creek, adjacent to Fort Monroe, Hampton, Virginia, enclosed by the following boundaries: to the north, a line drawn along latitude 37°01'00" N, to the east a line drawn along longitude 076°18'30" W, to the south a line parallel with the shoreline adjacent to Fort Monroe, and the west boundary is parallel with the Route 258—Mercury Boulevard Bridge. All coordinates reference Datum NAD 1983.

#### (b) *Definitions:*

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the "Hampton Cup Regatta" under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

#### (c) *Special local regulations:*

(1) Except for participating vessels and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. to 6:30 p.m. on August 18, 19 and 20, 2006.

Dated: June 16, 2006.

Larry L. Hereth,

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD07–04–136]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Broward County Bridges, Atlantic Intracoastal Waterway, Broward County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations governing the operation of all Broward County drawbridges across the Atlantic Intracoastal Waterway, Broward County, Florida. This rule will require these drawbridges to open twice an hour. This schedule will meet the reasonable needs of navigation while accommodating increased vehicular traffic flow throughout the county.

**DATES:** This rule is effective July 31, 2006.

**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 [CGD07–04–136] and are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 SE 1st Ave., Ste 432 Miami, Florida 33131–3050 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gwin Tate, Seventh Coast Guard District Bridge Branch, (305) 415–6747.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory Information

On August 16, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Broward County Bridges,

Atlantic Intracoastal Waterway, Broward County, Florida in the **Federal Register** (70 FR 157). We received 86 letters commenting on the proposed rule. No public meeting was requested, and none was held.

#### Background and Purpose

At the request of Broward County, the Coast Guard published a temporary deviation as a test regulation for Broward County drawbridges in the **Federal Register** (69 FR 67055). The test was conducted for approximately 90 days to collect data to determine the feasibility of changing the regulations on all drawbridges in Broward County crossing the Atlantic Intracoastal Waterway, to meet the increased demands of vehicular traffic and still provide for the reasonable needs of navigation. The test results indicated that the proposed schedule allowed both vehicular and vessel traffic the opportunity to predict, on a scheduled basis, when the bridges might be in the open position. We received 205 comments, 182 were in favor of the test schedules, 13 were in favor of keeping the existing schedules, 8 comments provided other recommended opening schedules, and 2 were general in nature.

In light of the test period, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** on August 16, 2005 (70 FR 48088) [CGD07–04–136], delineating this proposed new schedule. Due to the active hurricane season and lack of public comments to the previous Notice of Proposed Rulemaking, we issued a Supplemental Notice of Proposed Rulemaking in the **Federal Register** on January 31, 2006 (71 FR 5030) [CGD07–04–136]. We received 89 comments: 2 petitions with 58 signatures in favor of the schedules, 79 letters from individual citizens in favor of the schedules, 2 letters from municipalities in favor of the schedules, 5 letters from condominium associations in favor of the schedules, and 1 letter opposing the new schedules.

The change in operating regulations was requested by Broward County to reduce burdens on county roadways and to standardize drawbridge openings throughout the county. The rule will allow all drawbridges crossing the Atlantic Intracoastal Waterway in Broward County to operate on a standardized schedule that would meet the reasonable needs of navigation and address vehicular traffic congestion.

#### Discussion of Comments and Changes

We received 89 comments: 2 petitions with 58 signatures in favor of the schedules, 79 letters from individual

citizens in favor of the schedules, 2 letters from municipalities in favor of the schedules, 5 letters from condominium associations in favor of the schedules, and 1 letter opposing the new schedules. One commenter felt that changing on-demand openings to timed openings would be hazardous to vessels. The Coast Guard disagrees, as the previous test period and extensive study disclosed that having the bridges placed on a schedule would enable vessel traffic to predict when a drawbridge might open, thereby allowing trips to be timed so as to reach a drawbridge when it is in the open position.

### 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. The rule will provide timed openings for vehicular traffic and sequenced openings for vessel traffic and should have little economic impact.

### 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, as the rule will provide timed openings for vehicular traffic and sequenced openings for vessel traffic.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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

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 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 this preamble.

### Taking of Private Property

This rule will 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 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.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. Under figure 2-1, paragraph (32) (3), 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 the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. In § 117.261, remove and reserve paragraphs (cc), (dd), (ee), (ff), (gg), (hh), (jj), and (kk) and revise paragraph (bb) to read as follows:

#### § 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

\* \* \* \* \*

(bb) Broward County (1) Hillsboro Boulevard bridge (SR 810), mile 1050.0 at Deerfield Beach. The draw shall open on the hour and half-hour.

(2) NE 14th Street bridge, mile 1055.0 at Pompano. The draw shall open on the quarter-hour and three-quarter hour.

(3) Atlantic Boulevard (SR 814) bridge, mile 1056.0 at Pompano. The draw shall open on the hour and half-hour.

(4) Commercial Boulevard (SR 870) bridge, mile 1059.0, at Lauderdale-by-the-Sea. The draw shall open on the hour and half-hour.

(5) Oakland Park Boulevard bridge, mile 1060.5 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(6) East Sunrise Boulevard (SR 838) bridge, mile 1062.6, at Fort Lauderdale. The draw shall open on the hour and half-hour. On the first weekend in May, the draw need not open from 4 p.m. to 6 p.m. on Saturday and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

(7) East Las Olas bridge, mile 1064 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour. On the first weekend in May, the

draw need not open from 4 p.m. to 6 p.m. on Saturday and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

(8) SE 17th Street (Brooks Memorial) bridge, mile 1065.9 at Fort Lauderdale. The draw shall open on the hour and half-hour.

(9) Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach. The draw shall open on the hour and half-hour.

(10) Sheridan Street bridge, mile 1070.5, at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(11) Hollywood Beach Boulevard (SR 820) bridge, mile 1072.2 at Hollywood. The draw shall open on the hour and half-hour.

(12) Hallandale Beach Boulevard (SR 824) bridge, mile 1074.0 at Hallandale. The draw shall open on the quarter-hour and three-quarter hour.

\* \* \* \* \*

Dated: June 20, 2006.

**D.W. Kunkel,**

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

[FR Doc. E6-10252 Filed 6-28-06; 8:45 am]

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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 (AICW), Elizabeth River, Southern Branch, Virginia

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**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. The final rule will provide for hourly openings of the draw which will now start at 6 a.m. on weekdays and weekends and will not change the morning and evening rush hours, which are from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., respectively. The Dominion Boulevard (US 17) Bridge will continue to open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials, and for commercial vessels that provide a two-

hour advance notice. At all other times, the draw shall open on signal. These changes are necessary in order to relieve increased vehicular traffic congestion on weekends and between the weekday morning and evening rush hour periods while still providing for the reasonable needs of navigation.

**DATES:** This rule is effective July 31, 2006.

**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 CGD05-05-041 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

#### FOR FURTHER INFORMATION CONTACT:

Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

The Coast Guard published in the **Federal Register** (69 FR 75472) 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. 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.

On August 19, 2005, we published an interim rule with request for comment entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Elizabeth River, Southern Branch, VA" in the **Federal Register** (70 FR 48637). We received 28 e-mail messages and 4 on-paper responses on the interim rule. No public