

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-06-017]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (Alternate Route), Great Dismal Swamp Canal, South Mills, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing regulations that govern the operation of the new Great Dismal Swamp Canal Bridge, at the Alternate Route of the Atlantic Intracoastal Waterway (AICW) mile 28.0, in South Mills, NC. The final rule will maintain a level of operational capabilities that will continue to provide for the reasonable needs of the North Carolina Department of Parks and Recreation Visitor Center, at the Great Dismal Swamp, and vessel navigation.

**DATES:** This rule is effective August 16, 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 CGD05-06-017 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:** Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6422.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On April 6, 2006, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (Alternate Route), Great Dismal Swamp Canal, NC" in the *Federal Register* (66 FR 17394). We received one comment on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

The North Carolina Department of Parks and Recreation (NC Parks and

Recreation) will own and operate this new swing-type bridge at the Alternate Route of the AICW mile 28.0 across the Great Dismal Swamp Canal. This final rule will allow the new Great Dismal Swamp Canal Bridge to remain open to vessel traffic, closing only for pedestrian crossings and periodic maintenance. This rule will also allow the Great Dismal Swamp Canal Bridge to be operated by the Park Service Rangers at the Great Dismal Swamp Visitors Center. The controller will also monitor marine channel 13.0.

The final rule will require the draw to remain in the open-to-navigation position and only close to allow pedestrians (visitors to the park) to cross the bridge, and for periodic maintenance, and then the bridge will immediately reopen to navigation once the pedestrians have crossed the bridge. This will provide for an even flow of vessel traffic along the Great Dismal Swamp.

##### Discussion of Comments and Changes

The Coast Guard received one comment from the NC Parks and Recreation. The NC Parks and Recreation provided the following information to correct slight inaccuracies in the background and purpose of this rule: (1) The Park Service Rangers at the Great Dismal Swamp Visitors Center will not operate the new bridge at a remote location; (2) There are no closed circuit cameras or infrared sensors installed; and (3) There will be no nighttime operation of the new bridge since the Deep Creek Lock System, which provides access to and from the Alternate Route of the AICW Great Dismal Swamp, functions daily only at 8:30 a.m., 11 a.m., 1:30 p.m. and 3:30 p.m., therefore installation of the channel traffic lights will not be required.

The Coast Guard has incorporated the following changes: Insert the word "Great" preceding the phrase "Dismal Swamp Canal". This will accurately reflect the proper name used for this waterway.

Revise paragraph (b) to read "The bridge shall be operated by the Park Service Rangers at the Great Dismal Swamp Visitors Center." Remove in paragraphs (b) and (c) the sentences: "The remote operator shall monitor vessel traffic with closed circuit cameras and infrared sensors covering the swing radius." And, "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 when remote

operator's visibility is impaired", respectively.

In paragraph (d), remove the word "remote". Revise paragraph (e) to read "Before closing the draw, the horn will sound five short blasts. Five short blasts of the horn will continue until the Bridge is seated and locked down to vessels." Revise paragraph (f) to read "When pedestrian traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate the draw is opening to vessel traffic."

##### Discussion of Rule

The Coast Guard will adopt new regulations to govern the operation of the Great Dismal Swamp Canal Bridge, at mile 28.0, in South Mills, NC. The Coast Guard will insert this new specific regulation at 33 CFR 117.820. The final rule will allow the draw of the bridge to be operated by Park Service Rangers at the Great Dismal Swamp Visitors Center.

The draw will remain in the open position for navigation and shall only be closed for the crossing of pedestrians and periodic maintenance authorized in accordance with subpart A of this part.

Before the Great Dismal Swamp Visitor Center Bridge closes for any reason, the operator will monitor waterway traffic in the area. The bridge will only be closed if the operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

While the Great Dismal Swamp Visitor Center Bridge is moving from the full open to the full closed position, the operator will maintain constant surveillance of the navigation channel to ensure that no conflict with maritime traffic exists.

Before closing the draw, the horn will sound five short blasts. Five short blasts of the horn will continue until the bridge is seated and locked down to vessels.

When pedestrian traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate that the draw of the Great Dismal Swamp Canal Bridge is about to return to its full open position to vessels.

##### 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. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Although the Great Dismal Swamp Canal Bridge will be untended and operated by Park Service Rangers at the Great Dismal Swamp Visitors Center, mariners can continue their transits because the bridge will remain open to mariners, only to be closed for pedestrian crossings or periodic maintenance.

#### 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 rule would not have a significant economic impact on a substantial number of small entities for the following reason. The rule allows the Great Dismal Swamp Canal Bridge to be operated by Park Service Rangers at the Great Dismal Swamp Visitors Center and requires the bridge to remain in the open position to vessels the majority of the time, only closing for pedestrian crossings or periodic maintenance.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can 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 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 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 and Department of Homeland Security Management Directive 5100.1, which guide 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.

■ 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; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; § 117.255 also issued under the authority of Public Law 102–587, 106 Stat. 5039.

■ 2. Add new § 117.820 to read as follows:

**§ 117.820 Atlantic Intracoastal Waterway (Alternate Route), Great Dismal Swamp Canal.**

The draw of the Great Dismal Swamp Canal Bridge, mile 28.0 at South Mills, NC, shall operate as follows:

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

(b) The bridge shall be operated by the Park Service Rangers at the Great Dismal Swamp Visitors Center. Operational information will be provided 24 hours a day on marine channel 13.

(c) The bridge shall not be operated when the operator's visibility is impaired.

(d) Before the bridge closes for any reason, the operator will monitor waterway traffic in the area. The bridge shall only be closed if the 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.

(e) Before closing the draw, the horn will sound five short blasts. Five short blasts of the horn will continue until the bridge is seated and locked down to vessels.

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

Dated: July 3, 2006.

**L.L. Hereth,**

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

[FR Doc. E6–11274 Filed 7–14–06; 8:45 am]

**BILLING CODE 4910–15–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 51 and 93**

[EPA–HQ–OAR–2004–0491; FRL–8197–4]

**RIN 2060–AN60**

**PM<sub>2.5</sub> De Minimis Emission Levels for General Conformity Applicability**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is taking final action to amend its regulations relating to the Clean Air Act (CAA) requirement that Federal actions conform to the appropriate State, Tribal or Federal implementation plan for attaining clean air (“general conformity”) to add *de minimis* emissions levels for particulate matter with an aerodynamic diameter equal or less than 2.5 microns (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) and its precursors.

**DATES:** The final rule amendments are effective on July 17, 2006.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2004–0491. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Coda, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539–02, Research Triangle Park, NC 27711, phone number (919) 541–3037 or by e-mail at [coda.tom@epa.gov](mailto:coda.tom@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

Today's action applies to all Federal agencies and Federal activities.

**II. Background**

*A. What Is General Conformity and How Does It Affect Air Quality?*

The intent of the General Conformity requirement is to prevent the air quality impacts of Federal actions from causing or contributing to a violation of the NAAQS or interfering with the purpose of a State implementation plan (SIP). For the purpose of this rule, the term “State implementation plan (SIP)” refers to all approved applicable and

enforceable State, Federal and Tribal implementation plans (TIPs).

In the CAA, Congress recognized that actions taken by Federal agencies could affect States, Tribes, and local agencies' abilities to attain and maintain the NAAQS. Section 176(c)(42 U.S.C. 7506) of the CAA requires Federal agencies to ensure that their actions conform to the applicable SIP for attaining and maintaining the NAAQS. The CAA Amendments of 1990 clarified and strengthened the provisions in section 176(c). Because certain provisions of section 176(c) apply only to highway and mass transit funding and approvals actions, EPA published two sets of regulations to implement section 176(c). The Transportation Conformity Regulations, first published on November 24, 1993 (58 FR 62188) and recently revised on July 1, 2004 (69 FR 40004) and May 6, 2005 (70 FR 24280), address Federal actions related to highway and mass transit funding and approval actions. The General Conformity Regulations, published on November 30, 1993 (58 FR 63214) and codified at 40 CFR 93.150, cover all other Federal actions. This action applies only to the General Conformity Regulations.

When the applicability analysis shows that the action must undergo a conformity determination, Federal agencies must first show that the action will meet all SIP control requirements such as reasonably available control measures, and the emissions from the action will not interfere with the timely attainment of the standard, the maintenance of the standard or the area's ability to achieve an interim emission reduction milestone. Federal agencies then must demonstrate conformity by meeting one or more of the methods specified in the regulation for determining conformity:

1. Demonstrating that the total direct<sup>1</sup> and indirect<sup>2</sup> emissions are specifically identified and accounted for in the applicable SIP,

2. Obtaining written statement from the State or local agency responsible for the SIP documenting that the total direct and indirect emissions from the action along with all other emissions in the

<sup>1</sup> Direct emissions are emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action.

<sup>2</sup> Indirect emissions are emissions of a criteria pollutant or its precursors that: (1) Are caused by the Federal action, but may occur later in time and/or may be further removed in distance from the action itself but are still reasonably foreseeable; and (2) the Federal agency can practically control or will maintain control over due to the controlling program responsibility of the Federal action.