

## 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 (34)(f), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(f) as it revises the duration a vessel can anchor in a Federal Anchorage Ground.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

## List of Subjects in 33 CFR Part 110

- Anchorage grounds.
- For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

### PART 110—ANCHORAGE REGULATIONS

- 1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471; 1221 through 1236, 2030, 2035 and 2071; 33 CFR 1.05–1(g); and Department of Homeland Security Delegation No. 0170.1.

- 2. In § 110.155, add paragraphs (c)(5)(vi), (d)(10)(ii), (d)(11)(iii), (d)(12)(iii), and (e)(1)(iii), to read as follows:

#### § 110.155 Port of New York.

\* \* \* \* \*

- (c) \* \* \*
- (5) \* \* \*

(vi) No vessel may occupy this anchorage for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

\* \* \* \* \*

- (d) \* \* \*
- (10) \* \* \*

(ii) No vessel may occupy this anchorage for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

- (11) \* \* \*

(iii) No vessel may occupy this anchorage for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

- (12) \* \* \*

(iii) No vessel may occupy this anchorage for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

\* \* \* \* \*

- (e) \* \* \*
- (1) \* \* \*

(iii) No vessel may occupy this anchorage for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

\* \* \* \* \*

Dated: January 26, 2007.

**Timothy S. Sullivan,**

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

[FR Doc. E7-2454 Filed 2-12-07; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07-06-041]

RIN 1625-AA09

#### Drawbridge Operation Regulation; 63rd Street Bridge, Indian Creek, Miami, Miami-Dade County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the operating regulations governing the 63rd Street Drawbridge across Indian Creek, mile 4.0 in Miami-Dade County, Florida. This rule will allow the Drawbridge to open a single-leaf on the top of the hour from 8 a.m. to 5:59 p.m. and a double-leaf on the top of the hour between 6 p.m. and 12:10 a.m. At all other times this bridge will be closed to navigation.

**DATES:** This rule is effective from March 15, 2007 until June 19, 2007.

**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 (CGD07-06-041) and are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131–3050 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Seventh Coast Guard District, Bridge Branch, telephone number 305–415–6744.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On April 3, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; 63rd Street Bridge, Indian Creek, Miami, Miami-Dade County, FL in the **Federal Register** (71 FR 16529). We received two comments on the proposed rule. No public meeting was requested, and none was held.

The NPRM proposed an effective period of 8 a.m. on June 19, 2006 through 6 p.m. on February 5, 2007. Thus, this temporary final rule is effective from March 15, 2007 until June 19, 2007 because of contractor and the City of Miami Beach requests to balance the reasonable needs of vehicles and vessels while the bridge undergoes rehabilitation. Publishing another NPRM before this temporary rule would further delay meeting the immediate

safety concerns needed to protect local vessel and vehicle traffic from the temporary change in drawbridge operations.

#### Background and Purpose

The existing regulation of the 63rd Street Drawbridge, Indian Creek mile 4.0, Miami-Dade County, Florida, requires the draw to open promptly and fully for the passage of vessels when a request or signal to open is given.

The contractor representing the bridge owner (Florida Department of Transportation) requested that this drawbridge be placed on a restricted schedule to allow for the least amount of time that this work would influence both vehicle and vessel traffic. The contractor has been working directly with the City of Miami Beach and the local marina to balance the reasonable needs of both entities. The Coast Guard had reviewed the drawbridge logs for the 63rd Street Drawbridge and determined that there were limited nighttime openings.

#### Discussion of Comments and Changes

The Coast Guard received one response to the notice of proposed rulemaking (NPRM) and one response after the closure date of the NPRM. One comment requested that this bridge be closed to navigation during the daytime hours and one comment requested an exemption to the regulation or to allow no changes to the regulation so the drawbridge would open on demand. The request to close this bridge to navigation during daytime hours was determined to be unreasonable as this drawbridge is the only access for the local vessel owners and a marina located on the south side of the bridge. The request to leave this bridge on an on-signal schedule would unreasonably delay rehabilitating this bridge. For this reason the recommendation for an on-signal request was not approved.

#### 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.

#### 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 would affect the following entities, some of which may be small entities: The owners or operators of vessels needed to transit Indian Creek, persons intending to drive over the bridge, and nearby business owners. The revision to the openings schedule would not have a significant impact on a substantial number of small entities, although bridge openings will be restricted, vessel traffic will still be able to transit Indian Creek pursuant to the revised opening schedule.

#### 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 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). The Coast Guard will not retaliate against small entities that question or complain about the rule or any policy or action of the Coast Guard.

#### 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

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### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, and Department of Homeland Security Management Directive 5100.1, 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); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

- 2. Add Section 117.T293 to read as follows:

### § 117.T293 Indian Creek.

(a) The Drawspan of the 63rd Street Drawbridge, mile 4.0 across Indian Creek, Miami-Dade County, Florida will open a single-leaf on the hour from 8 a.m. to 5:59 p.m. and a double-leaf on the hour from 6 p.m. to 12:10 a.m. This Drawbridge will be closed to navigation at all other times.

(b) Effective date: This temporary rule is effective until June 19, 2007.

Dated: February 1, 2007.

**D.W. Kunkel,**

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

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“g61plkro2” (E-mail comments, with or without attachments, are limited to 5 megabytes); or

- Webform at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions at that site for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson–Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on January 22, 2007 (72 FR 2462, January 19, 2007). The fishery was subsequently reopened on February 5, 2007 and closed on February 7, 2007. The action filed with the Office of the **Federal Register** on February 5, 2007, and will publish February 9, 2007.

NMFS has determined that approximately 2,455 mt of pollock remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2007 TAC of pollock in Statistical Area 610, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA effective 1200 hrs, A.l.t., February 10, 2007.

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would