

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket No. USCG–2012–1021]

**Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (Alternate Route), Dismal Swamp Canal, South Mills, NC****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Great Dismal Swamp Canal Bridge, at mile 28.0, over the Atlantic Intracoastal Waterway (Alternate Route), Dismal Swamp Canal, South Mills, NC. The deviation restricts the operation of the draw span and is necessary in order to facilitate the structural repair of the bridge.

**DATES:** This deviation is effective from 8 a.m. December 10, 2012, until 5 p.m. December 14, 2012.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket USCG–2012–1021 and are available online by going to <http://www.regulations.gov>, inserting USCG–2012–1021 in the “Search” box, and then clicking “Search”. This material is also available for inspection or copying the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398–6422, email [Bill.H.Brazier@uscg.mil](mailto:Bill.H.Brazier@uscg.mil). If you have questions on reviewing the docket, call Renee V. Wright, Program Manager, Docket Operations, (202) 366–9826.

**SUPPLEMENTARY INFORMATION:** The North Carolina Department of the Environment and Natural Resources, Division of Parks and Recreation, who owns and operates this swing-type bridge, has requested a temporary deviation from the current operating

regulations set out in 33 CFR 117.820, to facilitate the structural repair of the bridge.

The Great Dismal Swamp Canal Bridge is normally maintained in the open position to navigation, closing only for pedestrian crossings and periodic maintenance.

Under this temporary deviation, the drawbridge will be closed to navigation from 8 a.m., on December 10, 2012, through 5 p.m., on December 14, 2012.

Vessel traffic along this part of the Atlantic Intracoastal Waterway (Alternate Route) consists of pleasure craft including sail boats, and fishing boats, with some commercial traffic. The alternate route for vessels transiting is the Atlantic Intracoastal Waterway, Albemarle Sound to Sunset Beach. The bridge will be unable to open in an emergency.

The Coast Guard has carefully coordinated the restrictions with recreational waterway users. The Coast Guard will inform all users of the waterway through our Local and Broadcast Notice to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the draw must return to its original operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 21, 2012.

**Waverly W. Gregory, Jr.,**

*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2012–29443 Filed 12–5–12; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket No. USCG–2012–1014]

**Drawbridge Operation Regulation; Mile 359.4, Missouri River, Kansas City, MO****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating

schedule that governs the Harry S. Truman Railroad Drawbridge across the Missouri River, mile 359.4, at Kansas City, Missouri. The deviation is necessary to allow the replacement of 64 counterweight cables that facilitate movement of the lift span. This deviation allows the bridge to remain in the closed position while the counterweight cables are replaced.

**DATES:** This deviation is effective from 7 a.m. on February 11, 2013, through 11:59 p.m. on March 2, 2013. If due to weather or other conditions, replacement cable work has not begun by 7 a.m. on February 11, 2013, the normal operating schedule in 33 CFR 117.687 will be maintained until this replacement work has started.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–1014 and are available online by going to <http://www.regulations.gov>, inserting USCG–2012–1014 in the “Search” box and then clicking “Search”. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard 314–269–2378, email [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** The Canadian Pacific Railway requested a temporary deviation for the Harry S. Truman Railroad Drawbridge, across the Missouri River, mile 359.4, at Kansas City, Missouri to remain in the closed-to-navigation position while 64 counterweight cables that facilitate movement of the lift span are replaced. The closure period will start at 7 a.m. on February 11, 2013, and continue through 11 p.m. on March 2, 2013.

Once the counterweight cables are removed, the lift span will not be able to open, even for emergencies, until the replacement of the counterweight cables are installed.

The Harry S. Truman Railroad Drawbridge currently operates in

accordance with 33 CFR 117.687, which states the draws of the bridges across the Missouri River shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24 hours advance notice is given.

There are no alternate routes for vessels transiting this section of the Missouri River. The Harry S. Truman Railroad Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 51.3 feet above zero on W. B. gage at Kansas City, Missouri. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with the waterway users.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 16, 2012.

**Eric A. Washburn,**

*Bridge Administrator, Western Rivers.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 51

RIN 2900-AO57

#### Contracts and Provider Agreements for State Home Nursing Home Care

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule amends Department of Veterans Affairs (VA) regulations to allow VA to enter into contracts or provider agreements with State homes for the nursing home care of certain disabled veterans. This rulemaking is required to implement a change in law that revises how VA will pay for care provided to these veterans and authorizes VA to use provider agreements to pay for such care. The change made by this law applies to all care provided to these veterans in State homes on and after February 2, 2013.

**DATES:** *Effective Date:* This interim final rule is effective on February 2, 2013. Comments must be received by VA on or before February 4, 2013.

**ADDRESSES:** Written comments may be submitted by email through [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov); by mail or hand-delivery to Director, Regulation Policy and Management (O2REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to “RIN 2900-AO57—Contracts and Provider Agreements for State Home Nursing Home Care.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Kelly Schneider, State Home Per Diem Program Manager, Purchased Care (10NB3), Chief Business Office, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420. Please call (308) 389-5106. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This rulemaking implements VA’s authority to pay for State home nursing home care under section 105 of the Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012 (the Act), Public Law 112-154, 126 Stat. 1165, which was enacted on August 6, 2012.

VA pays State veterans homes to provide nursing home care to eligible veterans under 38 U.S.C. 1741 and 1745. Under 38 U.S.C. 1745, as it existed before it was amended by section 105 of the Act, and current 38 CFR 51.41, VA currently pays State homes a special daily per diem rate for care provided to the following veterans: Those who need nursing home care for a service-connected disability, and those who need nursing home care and have either a service-connected disability rating of 70 percent or more or a rating of total disability based on individual unemployability. These payments under current 38 CFR 51.41 are considered grant payments. Section 105 of the Act requires VA to change the mechanism for paying State homes for care provided to these veterans. Specifically, as of February 2, 2013, VA will only be authorized to use contracts or provider agreements to pay State homes for the nursing home care of these veterans. This rulemaking therefore will revise VA’s regulation at 38 CFR 51.41, effective February 2, 2013, to implement

VA’s authority under the Act to enter into provider agreements and contracts to pay for this care.

In § 51.41(a), as revised by this rulemaking (hereinafter referred to as “revised § 51.41”), we identify the veterans whose care is affected by this rulemaking, i.e., veterans residing in State homes who need nursing home care for a VA adjudicated service-connected disability, or who need nursing home care and have either: (1) A singular or combined rating of 70 percent or more based on one or more service-connected disability, or (2) a rating of total disability based on individual unemployability. These veterans are identified by statute and are the same veterans for whose care State homes are currently paid the special daily per diem rate. 38 U.S.C. 1745(a)(1)(A) and (B). This rulemaking will affect payments for State nursing home care only for these veterans. VA will continue to pay basic per diem as specified in 38 CFR part 51 for all other veterans receiving State home nursing home care.

Consistent with current practice, if a veteran receives a retroactive VA service-connected disability rating and becomes a veteran identified in revised § 51.41(a), the State home may request additional payment for care rendered prior to the rating. Revised § 51.41(c)(4) provides that in these instances the State home may request payment under the VA provider agreement for care back to the retroactive effective date or February 2, 2013, whichever is later. For care provided to a veteran before February 2, 2013, the State home may request payment at the special per diem rate in effect at the time that the care was rendered, which will be reimbursed based on VA’s special per diem authority in current § 51.41. VA cannot enter into a contract to make retroactive payments for care rendered in the past. This is because contracts can only be created for a bona fide need that exists at the time of contract execution, not one that may have existed in the past.

Revised § 51.41(a) states that VA and State homes may enter into both contracts and provider agreements, but each veteran’s care will be paid through only one of these two instruments. This allows VA and State homes to use the payment instrument that best meets their needs.

As noted above, section 105 of the Act specifies that VA must pay State homes for the nursing home care of these veterans using either contracts or provider agreements. Because the Act makes no further explanation of the term “contracts,” VA has determined that existing contracting authorities