

FAA ATC facilities have reported simulating ESCAT.

This is an exercise message for \_\_\_\_\_ (State exercise name) \_\_\_\_\_. Exercise, Exercise, Exercise.

(b) ATCSCC will notify ARTCC(s)/CERAP(s).

(c) ARTCC(s)/CERAP(s) will notify all appropriate U.S. civil and military approach control facilities and FSS. Upon completion of all actions, the implementation completion time will be forwarded to the ATCSCC.

(d) ATCSCC will provide completion times to the appropriate military authority.

(e) Tests should normally be conducted in conjunction with scheduled headquarters NORAD approved exercises. Individual NORAD Regions and Sectors may conduct tests when test objectives are local in nature and prior coordination has been effected with the ATCSCC.

(g) A narrative summary of each test will be prepared by the ATCSCC and copies sent to the appropriate military authority. Each military authority will, in turn, forward copies of the summary to HQ NORAD and DHS.

#### Subpart H—Authentication

##### § 245.33 Approval.

Authentication will be accomplished via secure communications means between the appropriate military authority and the ATCSCC for the implementation of ESCAT. Implementation will be validated with a call back via secure communications to the appropriate military authority. Further dissemination of information may be accomplished over non-secure communications.

Dated: October 11, 2006.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, DoD.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-06-033]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, Queens, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulations governing the operation of the Beach Channel railroad bridge across Jamaica Bay, mile 6.7, at Queens, New York. This final rule requires the Beach Channel bridge to remain in the closed position during the morning and afternoon commuter rush hours from 6:45 a.m. to 8:20 a.m. and 5 p.m. to 6:45 p.m., Monday through Friday, except Federal holidays. In addition, obsolete language shall also be removed from the existing regulatory text. This rule is expected to help facilitate commuter rail traffic while continuing to meet the present and anticipated needs of navigation.

**DATES:** This rule is effective November 20, 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 CGD01-06-033 and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York, 10004, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, (212) 668-7195.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On May 24, 2006, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations"; Jamaica Bay and Connecting Waterways, New York, in the **Federal Register** (71 FR 29869). We received six comment letters in response to the NPRM. No public hearing was requested and none was held.

##### Background and Purpose

The Beach Channel railroad bridge across Jamaica Bay at mile 6.7 has a vertical clearance of 26 feet at mean high water, and 31 feet at mean low water in the closed position. The existing drawbridge operating regulations listed at 33 CFR 117.5 require the bridge to open on signal at all times.

Jamaica Bay facilitates both commercial and recreational vessel traffic. The owner of the bridge, New York City Transit, requested a change to the drawbridge operation regulations to help reduce commuter rail traffic delays during the morning and afternoon commuter hours.

Under this final rule, the Beach Channel railroad bridge will not open

for the passage of vessel traffic from 6:45 a.m. to 8:20 a.m. and from 5 p.m. to 6:45 p.m., Monday through Friday, except Federal holidays.

On November 2, 2005, the Coast Guard implemented a 90-day temporary deviation with request for public comment (70 FR 66260), to test the above proposed rule change. The temporary test deviation was in effect from December 1, 2005 through February 28, 2006. No comments or complaints were received in response to the temporary test deviation.

##### Discussion of Comments and Changes

The Coast Guard received six comment letters in response to the notice of proposed rulemaking. Two comments voiced no objection, three comments were in favor, and one comment objected to the rule change.

Motiva Enterprises, an oil and gasoline distributor, objected to the rule change which would allow the bridge to remain closed during the morning and evening commuter rail rush hours. Motiva stated that keeping the bridge closed at any time would negatively impact their operation. They also stated that they receive approximately six barge deliveries each week and that their barges' transits are made at high tide.

The Coast Guard believes that the negative impact Motiva claims is more a matter of inconvenience since the small number of barge transits they receive weekly would still be able to make their deliveries at or near the high tide in most cases.

The Coast Guard further believes that the relatively short duration of the scheduled bridge closures Monday through Friday, coupled with the infrequency of high tide occurring during those closures, is unlikely to result in frequent missed deliveries. In addition, the bridge will open on demand on Saturday and Sunday thereby providing two full days with no closures at any time.

As a result of the above information, the Coast Guard believes this final rule is reasonable.

In addition, we discovered obsolete regulatory text within the existing regulation, which will also be removed under this final rule.

The New York City Cross Bay Boulevard Bridge, mile 10.0, and the New York City Transit Authority Bridge, mile 10.6, which are listed under this section, have been subsequently permitted as fixed bridges by Coast Guard Bridge permits, (7-87-1) dated September 3, 1987 and (7-89-1) dated August 30, 1989. The above bridges can no longer open for the passage of vessel

traffic and shall be removed from this regulation under this final rule.

### 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.

This conclusion is based on the fact that vessel traffic would not be precluded from transiting through the Beach Channel railroad bridge each day, except for two closures of short duration, one in the morning, and one in the afternoon. Mariners would simply need to plan their daily transits in accordance with drawbridge operation schedule in order to help balance the needs of both rail and marine traffic.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 less than 50,000.

This rule would affect the following entities, some of which may be small entities, commercial barges and recreational vessels intending to transit the Beach Channel span. 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 for the reasons set forth in the Regulatory Evaluation section.

### 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.

No small entities requested Coast Guard assistance and none was given.

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 does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination

with Indian Tribal Governments, because it does not have 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 M16475.1D 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 considering that it relates to the

promulgation of operating regulations or procedures for drawbridges. 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 set out 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; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Amend § 117.795, by revising paragraph (c) to read as follows:

#### § 117.795 Jamaica Bay and Connecting Waterways.

\* \* \* \* \*

(c) The draw of the Beach Channel railroad bridge shall open on signal; except that, the draw need not open for the passage of vessel traffic, 6:45 a.m. to 8:20 a.m. and 5 p.m. to 6:45 p.m., Monday through Friday, except Federal holidays.

\* \* \* \* \*

Dated: October 3, 2006.

**Timothy S. Sullivan,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD08–06–036]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Belle Chasse, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Commander, Eighth Coast Guard District, has temporarily changed the regulation governing the operation of the State Route 23 vertical lift span drawbridge across the Gulf Intracoastal Waterway (Algiers Alternate

Route), mile 3.8, at Belle Chasse, Louisiana. This temporary final rule is issued to facilitate movement of vehicular traffic for the New Orleans Open House 2006 Air Show, to be held at the U.S. Naval Air Station, Joint Reserve Base at Belle Chasse, Louisiana.

**DATES:** This temporary final rule is effective from 3:30 p.m. on Saturday, October 21, 2006 until 7 p.m. on Sunday, October 22, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, New Orleans, Louisiana 70130–3310, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, (504) 589–2965.

#### SUPPLEMENTARY INFORMATION:

#### Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing an NPRM. The event is an annual event normally held on the last weekend in October. The regulation covering this annual event was subject to notice and comment, therefore further comments due to a one-time date change is unnecessary. A regulation already exists allowing the bridge to remain closed to navigation on that weekend; however, this year's event will be held on a different weekend. The closure will only impact the waterway users for 3.5 hours for two days. The bridge will open for vessels in distress during the closure period if necessary.

#### Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The closure of the bridge to marine traffic for this event has previously been the subject of public notice and comment; however, this year's event will be held one week earlier and requires a Temporary Rule to be issued to allow the bridge to remain closed to navigation. As the event will be held within a time frame of less than 30 days from the date of publication, it

would be impracticable to wait 30 days to make the temporary rule effective.

#### Background and Purpose

The State Route 23 vertical lift span drawbridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Louisiana has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 100 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists primarily of tugs with tows, commercial fishing vessels, and occasional recreational craft.

The Department of the Navy requested a temporary rule changing the operation of the State Route 23 vertical lift span drawbridge. The change accommodates the additional volume of vehicular traffic that the New Orleans Open House Air Show generates each year. A large amount of the general public are expected to attend the New Orleans Open House Air Show on each day. The change allows for the expeditious dispersal of the heavy volume of vehicular traffic expected to depart the Naval Air Station, Joint Reserve Base following the event. This event has been held annually on the last weekend in October. This year, however, the event is being held on a different weekend.

#### Discussion of Rule

The Coast Guard is temporarily changing the regulation in 33 CFR part 117 without publishing a NPRM. The temporary change allows the bridge to remain closed for 3.5 hours per day for two days to facilitate a community activity and will minimally affect waterway users wishing to transit through the bridge on this date. This event is an annual event and waterway users have never expressed any concerns regarding the delays to facilitate this event.

#### 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.

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.

This temporary rule will be only be for only 3.5 hours duration on two consecutive days and is therefore