

**Subpart L—[Amended]**

■ 16. The authority citation for subpart L of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631 and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383 and 1383b); sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

**§ 416.1202 [Amended]**

■ 17. In § 416.1202(b)(2)(i), remove the words “medical facility” and add in their place the words “medical treatment facility”.

[FR Doc. E7-17403 Filed 9-4-07; 8:45 am]

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

[USCG-2001-10881]

RIN 1625-AA36

**Drawbridge Operation Regulations; Amendments**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule; correction.

**SUMMARY:** The Coast Guard is correcting an oversight to the operating schedule of the Beach Channel railroad bridge across Jamaica Bay, mile 6.7, at Queens, New York, published on December 4, 2006 in the **Federal Register**. We are also correcting a paragraph designation in the operating schedule for the Woodrow Wilson Bridge across the Potomac River between Oxon Hill, Maryland and Alexandria, Virginia.

**DATES:** This Final rule is effective September 5, 2007.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2001-10881 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chris Jaufmann, Office of Bridge Administration, United States Coast Guard Headquarters, 202-372-1511. If

you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, Department of Transportation, telephone 202-493-0402.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On December 4, 2006, the Coast Guard published a final rule that made technical, organizational, and conforming amendments throughout 33 CFR part 117 (71 FR 70305). This rule became effective on January 4, 2007. However, the January 4, 2007 effective date inadvertently changed the operating schedule of the Beach Channel railroad bridge across Jamaica Bay, mile 6.7, at Queens, New York (33 CFR 117.795) which was published on October 20, 2006 and became effective on November 20, 2006 (71 FR 61895). Also, the amendatory language for 33 CFR 117.255 Potomac River, in the December 4, 2006 final rule, incorrectly designated paragraph (c) as paragraph (d).

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM for the present rule. An NPRM entitled “Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, New York”, was published in the **Federal Register**, on May 24, 2006, for the original change to the operating schedule (71 FR 29869). We are not making any changes to that final rule and are in fact correcting our error in reversing the changes made when that rule was finalized. Further notice and comment would be contrary to public interest and unnecessary.

For the same reason, 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**.

**Background and Purpose**

Originally, the owner of the Beach Channel railroad 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. An NPRM was published on May 24, 2006 and a final rule on October 20, 2006 reflecting these changes (71 FR 29869, 71 FR 61895). On December 4, 2006 another final rule was published that mistakenly removed the operating schedule for the Beach Channel railroad bridge from the Code of Federal Regulations (71 FR 70305).

This current final rule reestablishes the regulation published on October 20, 2006, which allows 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.

This rule will also make a minor technical edit by changing the paragraph (d) designation to paragraph (c) for 33 CFR 117.255 Potomac River, which was written incorrectly in the amendatory language for the final rule that published on December 4, 2006.

**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 no economic impact of this rule so a full Regulatory Evaluation is unnecessary. 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 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.

This rule could 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 want to assist small entities in understanding the rule so that they can 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 this 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

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 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.

■ Accordingly, 33 CFR part 117 is corrected by making the following correcting amendments:

#### 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; Department of Homeland Security Delegation No. 0170.1.

#### § 117.255 [Amended]

■ 2. In § 117.255 redesignate paragraph (d) as paragraph (c).

■ 3. In § 117.795 add 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: August 29, 2007.

**J.G. Lantz,**

*Acting, Assistant Commandant for Prevention.*

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