

that takes place every year on the last Wednesday and Thursday in July. The herd is owned by the Chincoteague Volunteer Fire Department and managed by the National Park Service. This annual event began in the 1700's, but in 1925 the Fire Department took over the event that is also referred to as the Chincoteague Volunteer Fireman's Carnival. The proceeds from the auctioning of the ponies provide a source of revenue for the fire company and it also serves to trim the herd's numbers. On Wednesday, July 30, 2003, the ponies will be lead across the Assateague Channel from Assateague Island to Chincoteague where they will be auctioned off. On Thursday, July 31, 2003, the remaining ponies will be lead back across the channel to Assateague Island. Due to the high volume of spectators that attend this yearly event, it is necessary to close the draw span on each of these days between the hours of 7 a.m. to 5 p.m. to ensure the safety of the ponies and to vehicular traffic congestion on this small island as a result of drawbridge openings. The drawbridge will resume opening on demand after 5 p.m. on July 30, 2003, to 7 a.m. on July 31, 2003. After 5 p.m. on July 31, 2003, the bridge will once again resume normal operation.

Under this temporary deviation, the Chincoteague Channel Bridge may remain in the closed position from 7 a.m. to 5 p.m. on Wednesday, July 30, 2003, and on Thursday, July 31, 2003.

Since the Pony Swim is a well-known annual event that occurs on the last Wednesday and Thursday in July every year, and is publicly advertised, vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

This deviation from the operating regulations is authorized under 33 CFR 117.43, and comments and information gathered during the comment period will assist the Coast Guard in determining if this test operating schedule is reasonable and should be made a permanent addition to the drawbridge operation regulations.

Dated: July 9, 2003.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Section, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-03-076]

RIN 1625-AA09

Drawbridge Operation Regulations; Brooks Memorial (S.E. 17th Street) Bridge, Atlantic Intracoastal Waterway Mile 1065.9, Fort Lauderdale, Florida

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is temporarily changing the operation of the new Brooks Memorial (SE. 17th Street) bridge across the Atlantic Intracoastal Waterway, Fort Lauderdale, Florida. This temporary rule requires the bridge to open on signal, except from 7 a.m. to 7 p.m. daily, the bridge need open only on the hour and half-hour.

DATES: This temporary rule is effective from 12:01 a.m. on July 16, 2003 until 6 p.m. on January 2, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD07-03-076] and are available for inspection or copying at room 432, Seventh Coast Guard District, Bridge Branch, 909 SE. 1st Avenue, Miami, Florida, 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Bridge Branch, 909 SE 1st Ave, Miami, Florida 33131, telephone number 305-415-6744.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07-03-076], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this temporary rule in view of them.

Regulatory Information

We did not publish a notice of proposed rulemaking (NRPM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM because traffic studies indicate vehicular congestion in this area directly related to this bridge opening.

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 less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Brooks Memorial (SE. 17th Street) bridge was replaced with a high-level bridge, which provides a vertical clearance of 55 feet above mean high water in the closed position and a horizontal clearance of 125 feet between fenders. The regulations for the old bridge were published in 33 CFR 117.261(hh) and will be removed as they do not apply to the new bridge. The new bridge has been operating on the old operating schedule since construction. Even though the new bridge has a higher vertical clearance than the old bridge, the number of openings has only slightly decreased because most sailboats still require a bridge opening. This temporary rule is intended to allow the Coast Guard to evaluate the adequacy of a half-hour schedule during the summer and winter daytime hours before a permanent rule is proposed.

Discussion of Rule

This temporary rule will require the Brooks Memorial (SE. 17th Street) bridge, mile 1065.9 at Fort Lauderdale, to open on signal; except that from 7 a.m. to 7 p.m. the draws need open only on the hour and half-hour.

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 because the rule still provides for at least two openings every hour.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this temporary 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 temporary rule will not have a significant economic impact on a substantial number of small entities because the rule still provides for at least two openings every hour.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this temporary rule will have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule will economically affect it.

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 temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If this temporary rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

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 temporary 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 Executive Order 13132 and have determined that this rule 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. Although this temporary rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule will 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 the 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 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.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, 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. 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; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 12:01 a.m. on July 16, 2003, until 6 p.m. on January 2, 2004, in § 117.261, suspend paragraph (hh) and add a new paragraph (uu) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(uu) The Brooks Memorial (SE. 17th Street) bridge, mile 1065.9 at Fort Lauderdale, shall open on signal; except that from 7 a.m. to 7 p.m. the draws need open only on the hour and half-hour.

Dated: July 3 2003.

Harvey Johnson Jr.,
Rear Admiral, U.S. Coast Guard, Commander,
Seventh Coast Guard District.

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