

until 4 p.m. on Wednesday, February 16, 2005.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 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 Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

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

**SUPPLEMENTARY INFORMATION:** The BNSF RR has requested a temporary deviation in order to remove and replace the motor and transmission of the Bayou Boeuf Swing Bridge across Bayou Boeuf, mile 10.2, at Amelia, St. Mary Parish, LA. The repairs are necessary to ensure the proper operation of the bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 8 a.m. until 4 p.m. on Monday, February 14, 2005, from 7 a.m. until 5 p.m. on Tuesday, February 15, 2005, and from 8 a.m. until 4 p.m. on Wednesday, February 16, 2005.

As the bridge has no vertical clearance in the closed-to-navigation position, vessels will not be able to transit through the bridge site when the bridge is closed. Navigation at the site of the bridge consists mainly of tows with barges and some recreational pleasure craft. Due to prior experience, as well as coordination with waterway users, it has been determined that this closure will not have a significant effect on these vessels. An alternate route is available by using the GIWW, Morgan City to Port Allen Alternate Route.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 13, 2005.

**Marcus Redford,**

*Bridge Administrator.*

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**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-04-157]

#### Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain closed from 6 a.m. to midnight on the following days: January 19 through January 21; January 26 through January 28; and January 31 through February 5, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

**DATES:** This deviation is effective from January 19, 2005 through February 5, 2005.

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

**SUPPLEMENTARY INFORMATION:** The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate rehabilitation repairs at the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from 6 a.m. through midnight on the following days: January 19 through January 21; January 26 through January 28; and from January 31 through February 5, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: January 12, 2005.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 05-1561 Filed 1-27-05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-04-168]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Christina River, Wilmington, DE

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations that govern the operation of the Norfolk Southern (NS) Railroad Bridge across Christina River, at mile 1.4, in Wilmington, DE. The bridge will remain open for vessel traffic, closing only for train crossings and periodic maintenance by an operator at a remote location. The final rule will maintain the bridge's current level of operational capabilities and continue to provide for the reasonable needs of rail transportation and vessel navigation.

**DATES:** This rule is effective February 28, 2005.

**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 CGD05-04-168 and are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Anton Allen, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6227.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On October 12, 2004, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Christina River, Wilmington, DE" in the **Federal Register** (69 FR 60597). We received five letters commenting on the proposed rule. No public meeting was requested, and none was held.

### Background and Purpose

Norfolk Southern Corporation (NSC), who owns and operates this swing-type bridge at mile 1.4 across the Christina River, in Wilmington, DE, requested a change to the current operating procedures set out in 33 CFR part 117.237(a)(2) which requires the draw to open on signal, except that the draw of a railroad bridge need not be opened when a train is in the bridge block, approaching the bridge, or within 5 minutes of the passage of a passenger train; but in no event shall the opening of the draw be delayed more than 10 minutes.

Under this rule, the NS Railroad Bridge will remain open to vessel traffic, closing only for train crossings and periodic maintenance. This rule would also allow the NS Railroad Bridge to be operated from a remote location at the Harrisburg, PA Dispatcher's Office.

NS has installed closed circuit cameras in the area of the bridge and directly beneath the bridge, mounted on the center pier fender systems on both sides. Infrared sensors have also been installed to cover the swing radius of the bridge. This equipment provides the controller the ability to monitor vessel traffic from the remote location. The controller will also monitor marine channel 13.

This change is being made to make the operation of the NS Railroad Bridge more efficient. It will save operational costs by eliminating the continuous presence of bridge tenders, and is expected to decrease maintenance costs. In addition, the draw being left in the open position most of the time will provide for greater flow of vessel traffic than the current regulation.

### Discussion of Comments and Changes

The Coast Guard received five comments on the NPRM. Vane Line Bunkering and the U.S. Army Corps of Engineers both commented that they were concerned about marine radio traffic disruption from NS announcements on marine channel 13. The disruption was caused by excessive power for the transmitter and broadcasting horn blasts over the marine radio. NS has fixed all discrepancies. Announcements for bridge operations will only be broadcast over loudspeakers on the bridge, not over marine channel 13. Power to the marine radio transmitter has been reduced to an acceptable level.

The Coast Guard received a comment from the Delaware State Historical Preservation Office who indicated that they have no objection to this rule.

The remaining comments, from NSC, requested changes to their original

submittal. NSC requested slight revisions to the language to be used in this rule. The Coast Guard has incorporated the following changes to this rule: In paragraph (b)(3), replaced "less than  $\frac{3}{4}$  of a mile" with "inhibited." Bends in the river near this bridge allow approximately  $\frac{1}{4}$  of a mile visibility. Added the words "Attention, Attention" to the announcement in paragraph (b)(5). In paragraph (b)(6), removed the word "automatically." The operation of this bridge is not intended to be automatic. Also in paragraph (b)(6), added the following statement: "Vessels shall stay clear of both channels as to not interfere with the infrared detectors, until green lights are displayed on the swing span."

The Coast Guard considers these changes necessary for safe navigation and the final rule was changed to reflect these proposals.

### 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. We reached this conclusion based on the fact that the changes have only a minimal impact on maritime traffic transiting the bridge. Although the NS Railroad Bridge will be untended and operated from a remote location, mariners can continue their transits because the bridge will remain open to mariners, only to be closed for train crossings or periodic maintenance.

### 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.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

### Collection of Information

This rule would call 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 would 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 would 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.ID, 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 because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

■ 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); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. In § 117.237 redesignate paragraphs (b) through (d) as paragraphs (c) through (e), add a new paragraph (b), and revise newly redesignated paragraph (d) to read as follows:

**§ 117.237 Christina River.**

\* \* \* \* \*

(b) The draw of the Norfolk Southern Railroad Bridge, mile 1.4 at Wilmington, shall operate as follows:

(1) The draw shall remain in the open position for navigation. The draw shall only be closed for train crossings or periodic maintenance authorized in accordance with subpart A of this part.

(2) The bridge shall be operated by the controller at the Harrisburg, PA Dispatcher's Office. The controller shall monitor vessel traffic with closed circuit cameras and infrared sensors covering the swing radius. Operational information will be provided 24 hours a day on marine channel 13 and via telephone (717) 541-2140.

(3) The bridge shall not be operated from the remote location in the following events: Failure or obstruction of the infrared sensors, closed-circuit cameras or marine-radio communications, or anytime controller's visibility is inhibited. In these situations, a bridge tender with Norfolk Southern must be called and on-site within 30 minutes.

(4) Before the bridge closes for any reason, the remote operator will monitor waterway traffic in the area. The bridge shall only be closed if the off-site remote operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area. While the bridge is moving, the operator shall maintain constant surveillance of the navigation channel.

(5) Before closing the draw, the channel traffic lights would change from flashing green to flashing red, the horn will sound five short blasts, and an audio voice warning stating, "Attention, Attention. Norfolk Southern Railroad Bridge over Christina River at milepost 1.4 will be closing to river traffic." Five short blasts of the horn will continue until the bridge is seated and locked down to vessels. The channel traffic lights will continue to flash red.

(6) When the rail traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate the draw is opening to vessel traffic. During the opening swing movement, the channel traffic lights would flash red until the bridge returns to the fully open position. In the full open position to vessels, the bridge channel lights will flash green followed by an announcement stating, "Security, security, security. Norfolk Southern Railroad Bridge over Christina River at mile 1.4 is open for river traffic." Vessels shall stay clear of both channels as to not interfere with infrared detectors, until green lights are displayed on the swing span.

(c) \* \* \*

(d) The draws of the Norfolk Southern Railroad bridges, at miles 4.1 and 4.2, both at Wilmington, shall open on signal from 6 a.m. to 8 p.m. if at least 24 hours notice is given. From 8 p.m. to 6 a.m., the draws need not be opened for the passage of vessels.

\* \* \* \* \*

Dated: January 20, 2005.

**Sally Brice-O'Hara,**

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

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD07-04-108]

RIN 1625-AA09

**Drawbridge Operation Regulations; Biscayne Bay, Atlantic Intracoastal Waterway, Miami River, and Miami Beach Channel, Miami-Dade County, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the regulations governing the operation of the east and