

Dated: November 23, 2007.

**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

[CGD08-07-042]

RIN 1625-AA09

#### Drawbridge Operating Regulation; Gulf Intracoastal Waterway (Algiers Alternate Route), Belle Chasse, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating regulation for the State Route 23 vertical lift bridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Louisiana. The portion of the existing regulation allowing the bridge to remain closed to navigation on the last weekend in October is no longer necessary and is being removed from the operating schedule.

**DATES:** This rule is effective on December 12, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [CGD08-07-042] and are available for inspection or copying at 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) 671-2128.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Frank, Bridge Administration Branch, telephone number 504-671-2128.

**SUPPLEMENTARY INFORMATION:** 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. Public comment is not necessary since the event requiring the closure has modified its schedule and the bridge closure no longer conforms to the dates and times of the event.

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**. There is no need to delay the implementation of this rule because the portion of the regulation being removed was date specific to the last weekend in October of each year.

#### Background and Purpose

On October 11, 2001, a Final Rule was published in the **Federal Register** [65 FR 60360] to change the operating schedule of the SR 23 vertical lift bridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, in Belle Chasse, Louisiana. The change allowed the drawbridge to not open for the passage of vessels from 4 p.m. to 7 p.m. on Saturday and Sunday of the last weekend in October. This regulation was in addition to the existing regulation that required the draw to open on signal; except that, from 6 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draw need not be opened for the passage of vessels. The change was to facilitate the movement of vehicular traffic from the New Orleans Open House Air Show held annually at the Naval Air Station, Joint Reserve Base at Belle Chasse, Louisiana.

Subsequent to the modification of the rule, the Air Show was cancelled in 2005, moved to a different weekend in 2006, and the time of the closure request was modified in 2007. The rule change for 2006 required a Temporary Rule to be published and the rule change for 2007 required a Temporary Deviation to be published. Additionally, the Air Show will not be held in 2008 in Belle Chasse making the regulation unnecessary. Therefore, it has been determined that the regulation be modified to remove the requirements of § 117.451(b)(2). Any future closure requirements, associated with any future Air Shows in Belle Chasse, will be publicized as required by 33 CFR part 117, subpart A.

#### Discussion of Rule

The Coast Guard is changing 33 CFR 117.451 without publishing an NPRM. This final rule changes the regulation governing the bridge to eliminate the section of the regulation that does not require the draw to open for the passage of vessels from 4 p.m. to 7 p.m. on Saturday and Sunday of the last weekend in October. This change improves the ability of vessels to transit on the waterway during this time period. As explained above, it is not necessary to publish an NPRM.

#### 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.

The Coast Guard does not consider this rule to be “significant” under that Order because it does not adversely affect the owners and operators of vessels operating on the waterway.

#### 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.

This rule will have no impact on any small entities because it will not adversely affect the owners and operators of vessels needing to transit the waterway.

#### 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.

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 final 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 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 may 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.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. 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 discussed 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.

■ 2. § 117.451(b) is revised to read as follows:

### § 117.451 Gulf Intracoastal Waterway.

\* \* \* \* \*

(b) The draw of the SR 23 bridge, Algiers Alternate Route, mile 3.8 at Belle Chasse, shall open on signal; except that, from 6 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draw need not be opened for the passage of vessels.

\* \* \* \* \*

Dated: December 3, 2007.

**J.R. Whitehead,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01–07–161]

#### Drawbridge Operation Regulations; Harlem River, New York City, 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 regulation governing the operation of the Spuyten Duyvil Bridge across the Harlem River at mile 7.9, at New York City, New York. Under this temporary deviation in effect from January 10, 2008 through April 14, 2008, the Spuyten Duyvil Bridge need not open for the passage of vessel traffic from 6 a.m. to 1:30 p.m. and from 3 p.m. to 9 p.m. The draw shall open on signal one time each day to accommodate vessel traffic between 1:30 p.m. and 3 p.m., after a one-hour advance notice is given by calling the number posted at the bridge. Vessels that can pass under the draw without a bridge opening may do so at all times. This deviation is necessary to facilitate scheduled bridge maintenance.

**DATES:** This deviation is effective from 6 a.m. on January 10, 2008 through 9 p.m. on April 14, 2008.