

(3) The Coast Guard will provide notice of the regulated area via Local Notice to Mariners, Broadcast Notice to Mariners and by on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 12:00 p.m. until 1:30 p.m. on March 23, 2013.

Dated: March 7, 2013.

C.P. Scraba,
Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 2013-06451 Filed 3-19-13; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2012-0357]

RIN 1625-AA09

Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting an interim drawbridge rule published in August 2012 as a final rule for the Berkley (I-264) Bridge, at mile 0.4, across the Eastern Branch of the Elizabeth River, Norfolk, VA. This rule, allowing only four scheduled bridge openings during the day, is necessary to alleviate heavy vehicular traffic delays throughout the day and secondary congestion during the afternoon rush hour, while still providing for the reasonable needs of navigation.

DATES: Effective April 19, 2013.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0357 and are available online by going to www.regulations.gov, and inserting USCG-2012-0357 in the “Search” box, and then clicking “Search”. This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or

email Terrance A. Knowles, Bridge Administration Branch, Fifth Coast Guard District, telephone (757) 398-6587, email terrance.a.knowles@uscg.mil. If you have questions on viewing or submitting material to the docket, call Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

- CFR Code of Federal Regulations
- DHS Department of Homeland Security
- FR Federal Register
- U.S.C. United States Code
- VDOT Virginia Department of Transportation
- VMA Virginia Maritime Association

A. Regulatory History and Information

On August 30, 2012, we published an interim rule (IR) entitled, “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (77 FR 52599). We received 545 comments on the proposed rule. No public meeting was requested, and none was held.

Other Related Regulatory Action: The following table describes regulatory actions related to this bridge. A discussion of those actions follows.

TABLE 1—RULEMAKINGS

| Date | Action | FR Cite | Drawbridge operation regs. (Docket No.) |
|------------|----------------------------|-------------|---|
| 10/09/2009 | Temporary Deviation | 74 FR 52143 | USCG-2009-0754. |
| 10/09/2009 | Proposed Rulemaking (NPRM) | 74 FR 52158 | USCG-2009-0754. |
| 03/03/2010 | Temporary Deviation | 75 FR 9521 | USCG-2010-0083. |
| 03/03/2010 | Supplemental NPRM | 75 FR 9557 | USCG-2009-0754. |
| 08/06/2010 | Temporary Final Rule | 75 FR 47461 | USCG-2009-0754. |
| 08/30/2012 | Interim Rule | 77 FR 52599 | USCG-2012-0357. |

On October 9, 2009, we published a notice of temporary deviation request for comments entitled; “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (74 FR 52143) and a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (74 FR 52158). We received 861 comments for both the temporary deviation and NPRM. No public meeting was requested then, and none was held.

On March 3, 2010, we published a notice of temporary deviation request for comments entitled; “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA” in the **Federal Register** (75 FR 9521) and a supplemental notice of proposed

rulemaking (SNPRM) entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (75 FR 9557). That time we received four comments on the published deviation and SNPRM. No public meeting was requested then, and none was held.

On August 6, 2010, we published a temporary final rule entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA” in the **Federal Register** (75 FR 47461) that temporarily changed the drawbridge operation regulations effective from 9 a.m. on September 4, 2010, until 2:30 p.m. on October 5, 2012.

The establishment of the recent interim rule, effective since October 6, 2012, and the previous temporary final

rule, with its similar operating rules/provisions, which was in effect since September 4, 2010, did not place any additional constraints on the waterway users because mariners already used the temporary schedule for almost two years and could still plan their trips in accordance with the scheduled bridge openings. Any operating schedule that would revert back to the previous on-demand operation of the drawbridge would produce a tremendous amount of delay. Prior to these four scheduled daytime openings, delays for motorists were unpredictable and were expected to increase with population growth and any increase in associated traffic.

B. Basis and Purpose

VDOT, which owns and operates the bascule-type Berkley Bridge, requested a

permanent change to the bridge regulations. This final rule makes permanent those temporary regulations currently in effect in the interim rule.

The Berkley Bridge is the principle arterial route in and out of the City of Norfolk and serves as the major evacuation highway in the event of emergencies. In the closed to navigation position, the Berkley Bridge has a vertical clearance of 48 feet above mean high water. Vessel traffic on this portion of the Elizabeth River waterway consists of pleasure craft, tug and barge traffic, and ships with assist tugs seeking repairs. There is no alternate waterway route.

The regulation set out in Title 33 CFR 117.1007 (b) allows the Berkley Bridge, mile 0.4, in Norfolk, Virginia to remain closed one hour prior to the published start of a scheduled marine event regulated under § 100.501, and remain closed until one hour following the completion of the event unless the Patrol Commander designated under § 100.501 allows the bridge to open for commercial vessel traffic. In addition, the bridge shall open on signal any time except from 5 a.m. to 9 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, and shall open at any time for vessels with a draft of 18 feet or more, provided that at least 6 hours advance notice has been given to the Berkley Bridge Traffic Control Room at (757) 494-2490 as required by 33 CFR 117.1007 (c).

The interim rule, which modified the above schedule, became effective on October 6, 2012. During the interim rule regulation, the draw shall remain closed one hour prior to the published start of a scheduled marine event regulated under § 100.501, and remain closed until one hour following the completion of the event unless the Patrol Commander designated under § 100.501 allows the bridge to open for commercial vessel traffic. The draw shall open on signal at any time for vessels carrying, in bulk, cargoes regulated by 46 CFR subchapters D or O, or Certain Dangerous Cargoes as defined in 33 CFR 160.204. For all other vessels, the draw shall open on signal at any time, except from 5 a.m. to 7 p.m., Monday through Friday, except Federal holidays. During these times, the draw shall open for commercial vessels with a draft of 18 feet or more, provided at least 6 hours notice was given to the Berkley Bridge Traffic Control room at (757) 494-2490; open on signal at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m.; and if the bridge is not opened during a particular scheduled opening and a vessel has made prior arrangements for a delayed opening, the draw tender may

provide a single opening up to 30 minutes past that scheduled opening time for that signaling vessel, except at 2:30 p.m. The draw tender may provide a single opening up to 20 minutes past the 2:30 p.m. scheduled opening time for a signaling vessel that made prior arrangements for a delayed opening. A vessel may make prior arrangements for a delayed opening by contacting the Berkley Bridge Traffic Control room at (757) 494-2490.

This final rule will make the interim final rule opening procedures permanent. Due to this, we anticipate less vehicular traffic congestion between 9 a.m. and 3 p.m., while causing fewer secondary back-ups during rush hours, as compared to increased traffic congestion when the bridge opened on signal.

In 2009, prior to implementing the temporary regulation, a Test Deviation published in the **Federal Register** (74 FR 52143) was issued to allow VDOT to test the proposed schedule and to obtain data and public comments. During that Test Deviation period, a count of the delayed vessels during the closure periods was taken to ensure the regulation would not have a significant impact on navigation. The monthly vehicular traffic counts submitted by VDOT for the last quarter of calendar year 2008 showed the average daily traffic volumes at the Berkley Bridge (See Table A):

TABLE A

| | |
|----------------|-------------------|
| OCT 2008 | 83,296 vehicles. |
| NOV 2008 | 99,643 vehicles. |
| DEC 2008 | 106,856 vehicles. |

The traffic counts revealed that from October 2008 to December 2008, the Berkley Bridge experienced a seven percent (or 23,560-car) increase in vehicular traffic flow. The Coast Guard believes that the increase was due to the previously referenced temporary closure of two Norfolk-area bridges and that vehicular traffic will subside when those bridges return to service.

The Coast Guard received 861 comments on both the temporary deviation and NPRM originally proposed in 2009. A large majority of the responses from commuters were in support of the scheduled opening set-up. However, the local maritime community expressed some objections to the schedule change to vessels.

After review of all of the comments and bridge-related data received, the Coast Guard had determined that an alternative proposal should be considered.

From September 4, 2010, to October 5, 2012, a temporary final rule (75 FR 47461, August 6, 2010) introduced changes that allowed for the draw of the Berkley Bridge to open on signal for the proposed drawbridge openings (scheduled during the daytime) which expected to similarly cause a decrease in traffic congestion. Concurrent with the publication of the SNPRM (75 FR 9557, March 3, 2010), another Test Deviation (75 FR 9521, March 3, 2010) was issued to allow VDOT to test another proposed schedule and to acquire additional data and public comments.

The Coast Guard received four responses to the SNPRM and the second temporary deviation, one each by letter and to the Web site at www.regulations.gov along with two emails, all of which were considered in the interim rule (77 FR 52599, August 30, 2012).

The VMA, which represents waterborne commerce in the Port of Hampton Roads, responded in writing with its support of the revised regulation and its statement that the current operating regulation incorporates the minimum degree of flexibility that the maritime industry can accept. VDOT also indicated that the new Berkley Bridge operating regulation had improved the flow of vehicular traffic while still meeting the minimum needs of navigation.

VMA, VDOT and two private citizens expressed concerns about unscheduled openings that caused vehicular traffic congestion. The unscheduled openings were provided for Government vessels and vessels with a draft of 18 feet or more that provided at least 6 hours advance notice and for vessels hauling dangerous cargo.

The Coast Guard reviewed the bridge data supplied by VDOT. The information indicated that during the deviation test period (from March 10, 2010, to September 3, 2010), that a total of 260 potential bridge openings for vessels could have been provided Monday through Friday, except Federal holidays, at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m. The data showed the bridge only opened 88 times of the 260 potential openings. The data also revealed that seven bridge openings were provided just about 15 minutes past the scheduled opening time at 9 a.m., 11 a.m. and 1 p.m. and that the average opening usually lasted 12 minutes; a later opening at 2:30 p.m. would add to the traffic congestion during the rush hour. However, due to good communication with the general public by using road signs and broadcasts, there was only one opening

that occurred after 2:45 p.m. A majority of those openings were provided primarily for commercial vessels, with a maximum of four vessels transiting through a single bridge opening. The subsequent changes to the operating procedures appear to have reduced

vehicular traffic congestion while still providing for the reasonable needs of navigation. Based on the information provided, the revised temporary rule was implemented with no changes to the SNPRM.

Between October 2010 and January 2012, from 9 a.m. and 3 p.m., according to data provided by VDOT, the Berkley Bridge averaged approximately 6,533 vehicles per hour which ranks it among the most heavily traveled routes in the region (See Table B).

TABLE B—AVERAGE DAILY VEHICULAR TRAFFIC COUNT

| Hourly total | Oct 2010 | Jan 2011 | May 2011 | Aug 2011 | Jan 2012 | Average |
|-----------------|----------|----------|----------|----------|----------|---------|
| 9AM–10AM | 6,509 | 6,230 | 6,545 | 6,335 | 5,956 | 6,315 |
| 10AM–11AM | 6,248 | 6,074 | 6,362 | 6,383 | 5,898 | 6,193 |
| 11AM–12PM | 6,443 | 6,008 | 6,457 | 6,439 | 5,927 | 6,255 |
| 12PM–1PM | 6,714 | 6,583 | 6,781 | 6,780 | 6,283 | 6,628 |
| 1PM–2PM | 6,860 | 6,345 | 6,766 | 6,760 | 6,249 | 6,596 |
| 2PM–3PM | 7,330 | 7,133 | 7,361 | 7,210 | 7,032 | 7,213 |
| Total | 40,103 | 38,373 | 40,270 | 39,906 | 37,345 | 39,199 |

Overall hourly average—6,533.

The temporary regulation schedule provided four bridge lift opportunities each weekday between 9 a.m. and 3

p.m. This equated to a maximum of 88 lifts per month (assuming 22 workdays per month). Since October 2010, there

has been an average of only 24 requested lifts per month—a usage rate of only 27% of capacity (See Table C).

TABLE C—BRIDGE OPENING COUNTS

| 2010 | 2010 | 2010 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2012 | 2012 | Monthly average | Total |
|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|-----------------|-------|
| Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | | | |
| 30 | 15 | 23 | 28 | 27 | 29 | 23 | 22 | 28 | 20 | 9 | 21 | 19 | 34 | 15 | 23 | 35 | 23.6 | 401 | |

BRIDGE OPENING AVERAGE DURATION

[In minutes]

| 2010 | 2010 | 2010 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2011 | 2012 | 2012 | Monthly average |
|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|-----------------|
| Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | | |
| 10.0 | 9.9 | 9.7 | 8.9 | 9.4 | 9.1 | 9.0 | 8.9 | 10.2 | 10.1 | 9.3 | 10.0 | 9.1 | 9.1 | 8.7 | 10.1 | 12.3 | 9.6 | |

Prior to execution of the temporary regulation period, the average duration of a bridge lift was approximately 15 minutes. Throughout the same periods, the average duration of bridge lifts has been 9.6 minutes—a reduction of 5.4 minutes per lift.

The temporary closures of two Norfolk-area bridges, forced increased use of the Berkley Bridge by vehicular traffic. Now with those bridges completed there is some temporary traffic relief, but VDOT suggests that the Berkley Bridge and its approaches will still experience back-ups, delays, and congestion, due to increased traffic and population growth. The Hampton Roads Planning District Commission projected a population growth of 31% by 2034. This continued increase in traffic volume in Norfolk and at the Berkley Bridge is not expected to decrease in the future. The interim rule draw opening schedule has helped to decrease the average bridge opening times, and the rule has led to only 27% of the available

opening time being utilized by mariners. Adopting the interim rule as final will help to mitigate future adverse impacts caused by the increased traffic congestion.

Assuming no reduction in maritime traffic volume, this reduction in lift duration has resulted in a significant efficiency increase in the use of time the bridge is actually opened for vessels and a significant reduction in delays to vehicular traffic during vessel openings. The reduction in lift duration combined with the predictability of scheduled lifts optimally balances the competing demands of both road and waterway users.

C. Discussion of Comments, Changes, and the Final Rule

The Coast Guard is adopting as final the interim rule (77 FR 52604, August 30, 2012) without changes, permanently amending the regulations governing the Berkley Bridge, mile 0.4, at Norfolk, Virginia, at 33 CFR 117.1007, by revising paragraph (b)(2) to read as

follows: The draw shall open on signal at any time for vessels carrying, in bulk, cargoes regulated by 46 CFR subchapters D or O, or Certain Dangerous Cargoes as defined in 33 CFR 160.204; For all other vessels, the draw shall open on signal at any time, except from 5 a.m. to 7 p.m., Monday through Friday, except Federal holidays. During these times, the draw shall open for commercial vessels with a draft of 18 feet or more, provided at least 6 hours notice was given to the Berkley Bridge Traffic Control room at (757) 494–2490; open on signal at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m.; and if the bridge is not opened during a particular scheduled opening and a vessel has made prior arrangements for a delayed opening, the draw tender may provide a single opening up to 30 minutes past that scheduled opening time for that signaling vessel, except at 2:30 p.m. The draw tender may provide a single opening up to 20 minutes past the 2:30 p.m. scheduled opening time for a

signaling vessel that made prior arrangements for a delayed opening. A vessel may make prior arrangements for a delayed opening by contacting the Berkley Bridge Traffic Control room at (757) 494-2490.

The Coast Guard believes that this permanent change is necessary to help reduce current and future vehicular traffic congestion throughout the day and during rush hour time periods. Results of studies conducted since the temporary regulation went into effect in September 2010 confirm that scheduled lifts have decreased congestion without negatively impacting waterway users. Scheduled lifts, according to the statistics, are currently being utilized well under capacity by the maritime public. Furthermore, waterway users are accustomed to this schedule, as it has been in effect since September 2010.

The Coast Guard provided 32 days for comment on the interim rule and received 545 total comments (533 public e-comments from www.regulations.gov, 11 phone calls, and one email message). Of the 545 comments, 544 overwhelmingly supported the regulation, and only one individual wanted the bridge to open on demand. Several of the 544 supporting comments wanted the schedule to be stricter on navigation by only allowing openings at night, or by lessening the number of openings during the day, or by adjusting the scheduled opening time by fifteen minutes to avoid additional rush hour impacts.

There were two comments from known waterway users. The first commenter, whose business is located along the Eastern Branch of the Elizabeth River, opined that the interim opening schedule to be a reasonable compromise and should be retained. The second commenter stated that all drawbridges should open on-demand due to the excessive expense put on mariners while waiting hours for a few commuters.

As previously stated, the vast majority of respondents supported the predictability of scheduled lifts during the day that will optimally balances the competing demands of both waterway users and the excessively high numbers of vehicles on the roadway.

D. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We reached this conclusion based on the fact that the changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings, to minimize delays. This regulation will allow the provisions of the interim rule to be made permanent.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received 0 comments from the Small Business Administration on this rule. 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 action will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, in allowing four scheduled openings during the day. Mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay. Additionally, vessels that can pass under the bridge without a bridge opening may do so at all times. Before the effective period, we will issue maritime advisories widely available to users of the river.

3. 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 rule. If the rule would 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 the **FOR FURTHER INFORMATION CONTACT**, above.

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.

4. 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.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the “For Further Information Contact” section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. 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 (adjusted for inflation) 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.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. 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.

10. 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.

11. 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.

12. 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.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, and 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ For the reasons discussed in the preamble, under the authority of 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, the interim rule amending 33 CFR part 117 that was published at 77 FR 52604 on August 30, 2012, is adopted without change as a final rule.

Dated: February 28, 2013.

Steven H. Ratti,

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

[FR Doc. 2013-06428 Filed 3-19-13; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0077]

RIN 1625-AA00

Safety Zone; 2013 Naval Air Station Key West Air Spectacular, Boca Chica Channel; Boca Chica, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Boca Chica Channel in Boca Chica, Florida, during the 2013 Naval Air Station Key West Air Spectacular. The safety zone is necessary to provide for the safety of life on navigable waters during the air show and air show practices. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Key West or a designated representative.

DATES: This rule is effective from 12 p.m. on March 21, 2013, until 4:30 p.m.

on March 24, 2013. This rule is enforced from 12 p.m. until 1 p.m., 1:30 p.m. until 2:30 p.m., and 3:30 p.m. until 5:30 p.m. on March 21, 2013, and from 2:30 p.m. until 4:30 p.m. on March 22, 23 and 24, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0077]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Marine Science Technician First Class William G. Winegar, Sector Key West Prevention Department, Coast Guard; telephone (305) 292-8809, email William.G.Winegar@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive necessary information from the United States Navy about the event until February 5, 2013; The Navy is anticipating this event taking place as scheduled. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay