

**Environment**

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

**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 § 117.997, redesignate paragraphs (e) through (i) as paragraphs (f) through (j) respectively, and add a new paragraph (e) to read as follows:

**§ 117.997 Atlantic Intracoastal Waterway, Southern Branch of the Elizabeth River to Albemarle and Chesapeake Canal.**

\* \* \* \* \*

(e) The draw of the Norfolk Southern #7 Railroad Bridge, mile 5.8 in Chesapeake, shall operate as follows:

(1) The draw shall be remotely controlled by the operator at the Norfolk Southern #5 Railroad Bridge office over the Eastern Branch of the Elizabeth River, at mile 1.1, in Norfolk.

(2) The draw shall be left in the open position to vessels and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(3) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in § 117.31(b).

(4) Before the bridge closes for any reason, the off-site remote operator will monitor waterway traffic in the area with closed circuit cameras and motion sensors mounted on the bridge. The bridge will 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.

(5) While the bridge is moving from the full open position to the full closed position, the off-site remote operator will maintain constant surveillance of the navigation channel to ensure that no conflict with maritime traffic exists. In the event of failure or obstruction, the off-site remote operator will stop and return the bridge to the full open position to vessels. In the event of a failure or obstruction, a bridge tender must be called by the off-site remote operator and must be on-site within 30 minutes of the call to operate the bridge.

(6) During closing of the span, the channel traffic lights will change from flashing green to flashing red, the horn will sound twice, and an audio voice warning device will announce bridge movement, then two repeat blasts of the horn will sound until the bridge is seated and locked down. When the bridge is seated and locked down to vessels, the channel traffic lights will flash red.

(7) During the open span movement, the channel traffic lights will flash red, the horn will sound twice, followed by a pause, and then five repeat blasts of the horn will sound until the bridge is in the full open position to vessels. In the full open position to vessels, the bridge channel traffic lights will turn from flashing red to flashing green then an audio warning device will announce bridge movement by stating "Security, security, security, the Norfolk Southern #7 Railroad Bridge at mile 5.8 is open for river traffic".

(8) Operational information will be provided 24 hours a day on marine channel 13 and via telephone (757) 924-5320.

\* \* \* \* \*

Dated: November 22, 2004.

**Ben R. Thomason, III,**

*Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 04-26522 Filed 12-1-04; 8:45 am]

BILLING CODE 4910-15-P

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

[CGD05-04-120]

RIN 1625-AA09

**Drawbridge Operation Regulations; Northeast Cape Fear River, Wilmington, NC**

AGENCY: Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations that govern the operation of the CSX Transportation (CSX) Hilton Railroad Bridge across the Northeast Cape Fear River, at mile 1.5, in Wilmington, NC. The final rule will eliminate the need for a bridge tender by allowing the bridge to be operated from a remote location. This rule change will maintain the bridge's current level of operational capabilities and continue providing for the reasonable needs of rail transportation and vessel navigation.

**DATES:** This rule is effective January 3, 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 CGD05-04-120 and are available at Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District, at (757) 398-6587.

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

On August 4, 2004, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations: Northeast Cape Fear River, Wilmington, NC" in the **Federal Register** (69 FR 47045). We received one comment on the proposed rule. No public hearing was requested nor held.

**Background and Purpose**

CSX, who owns and operates this movable (bascule type) bridge, requested changes to the operating procedures for the drawbridge located at mile 1.5 across the Northeast Cape Fear River, in Wilmington, NC. The vertical clearance under CSX Hilton Railroad Bridge in the closed position to vessels is 9 feet at mean low water and 6 feet at mean high water. The existing regulation listed at 33 CFR 117.5 requires the bridge to open on signal.

Under this rule, CSX will remotely operate the opening and closing of the CSX Hilton Railroad Bridge across Northeast Cape Fear River in Wilmington, NC, from the nearby CSX Navassa Railroad Bridge located on the Cape Fear River. CSX has installed motion sensors, laser scanners and high-resolution video cameras on the bridge to enhance the remote operator's ability

to monitor and control the equipment. The CSX Navassa Railroad Bridge is also equipped with an amplified open-mike from the bridge to enable the remote operator to hear boat horns that may signal for an opening. CSX has also installed additional safety warning lights to the bridge for the remote operation. This rule proposes to allow the bridge to be unmanned and operated from a remote location at the CSX Navassa Railroad Bridge. The CSX Hilton Railroad Bridge will normally be left in the fully open position displaying flashing green channel lights indicating that vessels may pass through.

This change is being requested to make the closure process of the Hilton Railroad Bridge more efficient. It will save operational costs by eliminating 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 one comment on the NPRM. The comment from the Wilmington Superintendent of Water Treatment, expressed concerns on the potential for radio frequency interference between the surveillance systems at Sweeney Water Treatment Plant and the Hilton Bridge. CSX explained that the two facilities were operating on different frequencies and that there should be no problem. Therefore, no changes are being made to this final rule.

#### **Regulatory Evaluation**

This final 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 reached this conclusion based on the fact that this final rule will have minimal impact on maritime traffic transiting the bridge. Although the CSX Hilton Railroad Bridge will be operated from a remote location, mariners can continue their transits because all aspects of the current operating regulations remain essentially the same.

#### **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 not have a significant economic impact on a substantial number of small entities for the following reasons. The final rule will allow the CSX Hilton Railroad Bridge to operate remotely and requires the bridge to remain in open position to vessels the majority of the time, only closing for a train crossing or periodic maintenance.

#### **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. In our Notice of Proposed Rulemaking, we provided a point of contact to small entities who could answer questions concerning proposed provisions or options for compliance.

#### **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 security 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 considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

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

Bridges.

#### Regulations

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 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 §117.829, redesignate paragraph (b) as paragraph (c), revise newly redesignated paragraph (c), and add a new paragraph (b) to read as follows:

#### § 117.829 Northeast Cape Fear River.

(a) \* \* \*

(b) The CSX Hilton Railroad Bridge, mile 1.5 in Wilmington, NC shall operate as follows:

(1) The draw of the bridge to be remotely operated by the controller at the Navassa Railroad Bridge mile 34.0 across the Cape Fear River.

(2) The draw shall be left in the open position to vessels and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with Subpart A of this part.

(3) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in 117.31(b).

(4) The CSX Hilton Railroad Bridge shall not be operated by the controller at the CSX Navassa Railroad in the event of failure or obstruction of the motion sensors, laser scanners, video cameras or marine-radio communications. In these situations, a bridge tender must be called to operate the bridge on-site.

(5) When rail traffic has cleared, the horn will automatically sound one prolonged blast followed by one short blast to indicate that the CSX Hilton Railroad Bridge is moving to the full open position to vessels. During open span movement, the channel traffic lights will flash red, until the bridge is in the full open position to vessels. In the full open position to vessels, the bridge channel traffic lights will flash green, allowing vessels to pass safely.

(6) During closing span movement, the channel traffic lights will flash red, the horn will sound five short blasts, and an audio voice-warning device will announce bridge movement. Five short blasts of the horn will continue until the bridge is seated and locked down. When the bridge is seated and in the locked down position to vessels, the channel traffic lights will continue to flash red.

(c) The draw of the Seaboard System Railroad Bridge across the Northeast Cape Fear River, mile 27.0, at Castle Hayne, North Carolina shall open on signal if at least four hours notice is given.

Dated: November 22, 2004.

**Ben R. Thomason, III,**

*Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 04-26521 Filed 12-1-04; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 13

RIN 1024-AD13

#### National Park System Units in Alaska

**AGENCY:** National Park Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the special regulations for the NPS-administered areas in Alaska. These regulations were first adopted in 1981 as "interim guidance" and the minimum necessary to administer the new park areas established by the Alaska National Interest Lands Conservation Act. While we have made some changes to the rule since 1981, there has been no comprehensive review. This revision is

the start of an ongoing review process for the purpose of maintaining up-to-date regulations that are responsive to changing public and resource needs.

**DATES:** This rule is effective on January 3, 2005.

**ADDRESSES:** Mail inquiries to the National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501 or by e-mail to [akro\\_regulations@nps.gov](mailto:akro_regulations@nps.gov).

**FOR FURTHER INFORMATION CONTACT:** National Park Service, Victor Knox, Deputy Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Telephone: (907) 644-3501. E-mail: [akro\\_regulations@nps.gov](mailto:akro_regulations@nps.gov). Fax: (907) 644-3816.

#### SUPPLEMENTARY INFORMATION:

#### Background

Each park area in Alaska has a compendium consisting of the compiled designations, closures, openings, permit requirements, and other provisions established by the Superintendent under the discretionary authority granted in 36 CFR 1.5 and elsewhere in regulations. As a result of our review of part 13 and the associated park compendiums the following changes are being made. These changes, discussed below under Summary of Comments, and as noted above, represent the first phase of an ongoing rulemaking process to be conducted in conjunction with an annual review of individual park compendiums. Most of the revised rules replace existing provisions in park compendiums. Also included are four rules that had been under separate consideration apart from the compendium review process and are included with this rulemaking for administrative convenience and efficiency. Each of these rules is identified in the Summary of Comments paragraphs that follow. As used within this document, the terms "we," "our," and "us" refer to the National Park Service.

#### Summary of Comments

The proposed rule was published for public comment on April 2, 2004 (69 FR 17355), with the initial comment period lasting until June 1, 2004. The comment period was extended to June 16, 2004 (69 FR 31778). The National Park Service received 17 timely written responses regarding various sections of the proposed rule. All of the responses were either separate letters or email messages. Of the 17 responses two were from governmental agencies (one state and one local), eight were from non-governmental organizations (including