

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD01-02-134]

RIN 2115-AE47

**Drawbridge Operation Regulations;  
New Rochelle Harbor, NY****AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the drawbridge operation regulations that govern the Glen Island Bridge, at mile 0.8, across New Rochelle Harbor at New Rochelle, New York. This change to the drawbridge operation regulations allows the bridge to remain closed to navigation from 7 a.m. on December 1, 2002 through 5 p.m. on April 1, 2003. This action is necessary to facilitate necessary repairs at the bridge.

**DATES:** This rule is effective from December 1, 2002 through April 1, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket (CGD01-02-134) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110-3350, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668-7165.

**SUPPLEMENTARY INFORMATION:****Regulatory 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 and 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**.

The Coast Guard coordinated the bridge repair project and related temporary bridge closure with the mariners who use this waterway. The mariners agreed that the temporary bridge closure will not affect the needs of waterway users. There is an alternate route to open water that mariners may use during this temporary bridge closure. The effective period of this temporary rule is traditionally the most dormant season for the vessel traffic on this waterway and accordingly, the best time to perform the necessary repairs at the bridge.

The Coast Guard believes that an NPRM is unnecessary because of the relatively low number of opening requests received at the bridge December through April, and the fact that an alternate route is available to the mariners.

Good cause exists for making this regulation effective in less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest. Delaying the start of this project would delay the completion date of this project, disrupting vehicular and marine traffic next spring when traffic is much heavier than during the winter months when this temporary operating schedule will be in effect.

**Background and Purpose**

The Glen Island Bridge has a vertical clearance of 13 feet at mean high water and 20 feet at mean low water. The existing regulations are listed at 33 § CFR 117.802.

The bridge owner, Westchester Department of Public Works, asked the Coast Guard to temporarily change the drawbridge operation regulations to facilitate mechanical and structural repairs at the bridge to be performed from 7 a.m. on December 1, 2002 through 5 p.m. on April 1, 2003.

The Coast Guard contacted the mariners who operate on New Rochelle Harbor River regarding this temporary bridge closure and no objections were received.

**Discussion of Rule**

The Coast Guard is temporarily changing the drawbridge operation regulations governing the Glen Island Bridge, mile 0.8, across New Rochelle Harbor at New Rochelle, New York. This temporary change to the drawbridge operation regulations will allow the bridge to remain in the closed position to navigation from 7 a.m. on December 1, 2002 through 5 p.m. on April 1, 2003.

**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 Transportation (DOT) (44 FR 11040; February 26, 1979).

This conclusion is based on the fact that the mariners may use an alternate route to open water.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 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 conclusion is based on the fact that the mariners may use an alternate route to open water.

**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 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 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 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### 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 because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

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

Bridges.

#### Regulations

For the reasons set 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; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From December 1, 2002 through April 1, 2003, in § 117.802, paragraph (a) is temporarily suspended and a new temporary paragraph (c) is added to read as follows:

#### § 117.802 New Rochelle Harbor.

\* \* \* \* \*

(c) The draw of the Glen Island Bridge, mile 0.8, at New Rochelle, New York, need not open for the passage of vessel traffic from 7 a.m. on December 1, 2002 through 5 p.m. on April 1, 2003.

Dated: November 22, 2002.

**V.S. Crea,**

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

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**BILLING CODE 4910-15-P**

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[COTP Los Angeles-Long Beach 02-004]

RIN 2115-AA97

#### Security Zones; San Pedro Bay, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing moving and fixed security zones around and under all cruise ships located on San Pedro Bay, California, in and near the ports of Los Angeles and Long Beach. These security zones are needed for national security reasons to protect the public and ports from potential terrorist acts. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port Los Angeles-Long Beach.

**DATES:** This rule is effective December 1, 2002.

**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 (COTP Los Angeles-Long Beach 02-004) and are available for inspection or copying at U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California,

90731 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Rob Griffiths, Assistant Chief of Waterways Management Division, at (310) 732-2020.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On October 28, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Security Zones; San Pedro Bay, CA" in the **Federal Register** (67 FR 65746). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

On January 18, 2002, we published a similar temporary final rule (TFR) entitled "Security Zones; Port of Los Angeles and Catalina Island" in the **Federal Register** (67 FR 2571) that expired on May 1, 2002.

On May 13, 2002, we published a similar temporary final rule (TFR) entitled "Security Zones; Cruise Ships, San Pedro Bay, CA" in the **Federal Register** (67 FR 31955) that is set to expire December 1, 2002.

The Captain of the Port has determined the need for continued security regulations exists. Accordingly, this final rule creates a permanent regulation for security zones in the same locations covered by the temporary final rule published May 13, 2002.

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**. The current TFR is set to expire December 1, 2002, and any delay in the effective date of this final rule is impractical and contrary to the public interest.

#### Background and Purpose

Since the September 11, 2001, terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and growing tensions in Iraq have made it prudent for U.S. ports to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and