

Risks and Safety Risks. This rule is not an economically significant rule and does not cause 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. 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.ID, this rule is categorically excluded from further environmental documentation. This 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 set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations 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. § 117.451(c) is revised to read as follows:

#### § 117.451 Gulf Intracoastal Waterway.

\* \* \* \* \*

(c) The draw of the Bayou Dularge bridge, mile 59.9, at Houma, shall open on signal; except that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

\* \* \* \* \*

Dated: January 15, 2003.

**J.R. Whitehead,**

*Captain, Coast Guard, Acting Commander,  
8th Coast Guard District.*

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**BILLING CODE 4910-15-P**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD08-02-023]

RIN 2115-AE47

#### Drawbridge Operation Regulation; Houma Navigation Canal, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the existing drawbridge operation regulation for the draw of the SR661 bridge across the Houma Navigation Canal, mile 36.0, at Houma, Terrebonne Parish, Louisiana. The modification will allow for the morning closure period to be increased by 30 minutes to facilitate the movement of high volumes of vehicular traffic across the bridge during peak traffic hours.

**DATES:** This rule is effective February 24, 2003.

**ADDRESSES:** Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8-02-0023 and are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130-3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. Commander, Eighth District (obc), maintains the public docket for this rulemaking.

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

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On October 21, 2002, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation, Houma Navigation Canal, LA in the **Federal Register** (67 FR 64578). We received two responses commenting on the proposed rule. No public hearing was requested, and none was held.

#### Background and Purpose

Presently, the draw of the SR 661 bridge, mile 36.0, at Houma shall open on signal, except that the draw need not be opened for the passage of vessels Monday through Friday except holidays from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m.

The Louisiana Department of Transportation and Development has requested a modification to the morning bridge operation schedule to allow the bridge to remain closed to navigation from 6:30 a.m. until 8:30 a.m. vice 7 a.m. to 8:30 a.m. The bridge serves as an important link between the largest residential neighborhoods in Terrebonne Parish and the Central Business District. Approximately 13,000 vehicles cross the bridge daily, 10% of which cross the bridge during the requested closure times. The adjustment to the morning closure time reflects a change to expand the closure period to align with the heaviest commuter traffic. The amount of commuter traffic continues to increase. The bridge averages 953 openings a month. It is estimated that 3 tows a month will be delayed by the additional 30-minute morning closure request. In a 17-day review period in July 2002, two tows requiring bridge openings were delayed during the requested additional time period. The average length of the bridge opening is less than ten minutes, delaying an average of 60 vehicles for each opening.

#### Discussion of Comments and Changes

The Coast Guard received two letters in response to the Notice of Proposed Rulemaking. One letter was from a state senator representing the Terrebonne Parish area who strongly supported the proposed change. The second letter was received from the National Marine Fisheries Service stating that the drawbridge was not in their area of responsibility and declined comment. Only one minor administrative change was made to the final rule. The word "Federal" was added to the phrase "except holidays" to clarify when the rule will be in effect. No other changes

to the final rule were made based upon the comments received.

### 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).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule allows vessels ample opportunity to transit the Gulf Intracoastal Waterway with proper notification before and after the peak vehicular traffic periods. Commercial towboat operators can avoid being impacted by simply arriving 30 minutes earlier at the bridge.

### 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.

Small entities, including towboat operators and their waterway user groups, were given an opportunity to comment regarding the effects of this proposed rule. We received no letters of objection to the proposed modification.

### 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 so that they can 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).

### 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 the 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 does not cause 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. 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.ID, this rule is categorically excluded from further environmental documentation. This 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 set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations 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. § 117.455 is revised to read as follows:

#### § 117.455 Houma Navigation Canal.

The draw of the SR661 bridge across the Houma Navigation Canal, mile 36.0, at Houma, shall open on signal; except

that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

Dated: January 15, 2003.

**J.R. Whitehead,**

*Captain, U.S. Coast Guard, Acting  
Commander, 8th Coast Guard District.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Jacksonville 02-066]

RIN 2115-AA97

#### Security Zones; Ports of Jacksonville, Fernandina, and Canaveral, Florida

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent security zones around certain vessels within the ports of Jacksonville, Fernandina, and Canaveral. The security zones will prohibit entry into or movement within 100 yards of all tank vessels, cruise ships, and military pre-positioned ships when these vessels enter, depart or moor within the ports of Jacksonville and Canaveral. These security zones are needed to ensure public safety and prevent sabotage or terrorist acts against vessels in the COTP Jacksonville area of responsibility. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Jacksonville, Florida or his designated representative.

**DATES:** This rule is effective February 24, 2003.

**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 [COTP Jacksonville 02-066] and are available for inspection or copying at Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, FL 32211, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

LTJG Drew Casey, Coast Guard Marine Safety Office Jacksonville, at (904) 232-3610.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory Information

On September 12, 2001, one day after the September 11 terrorist attacks, the

Coast Guard Captain of the Port in Jacksonville established a temporary rule establishing security zones around tank vessels, passenger vessels, and military pre-positioned ships until October 3, 2001 (published on September 26, 2001, 66 FR 49104). Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely. As a result, on October 17, 2001, the Coast Guard published a second temporary rule in the **Federal Register** continuing these zones through 11:59 p.m. June 15, 2002 (66 FR 52689). The third temporary rule continued the zones through noon on November 15, 2002 (67 FR 41339). A fourth temporary rule continued the zones until January 30, 2003 so the Coast Guard can give adequate consideration to the comments received from the notice of proposed rulemaking (67 FR 55184).

On August 28, 2002 we published a notice of proposed rulemaking in the **Federal Register** entitled "Security Zones; Ports of Jacksonville, Canaveral, and Fernandina, FL" (67 FR 55184). We received one comment on the proposed rule, which is discussed below.

#### Background and Purpose

This rule creates 100-yard security zones around all tank vessels, cruise ships, and military pre-positioned ships when these vessels enter, depart or moor within the Ports of Jacksonville, Fernandina, and Canaveral. No person or vessel may enter these zones without the permission of the Captain of the Port of Jacksonville. These moving security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30 deg. 23' 35" N, 81 deg. 19' 08" W, when entering the Port of Jacksonville, or pass Port Canaveral Channel Entrance Buoys # 3 or # 4, at respective approximate positions 28 deg. 22.7' N, 80 deg. 31.8', and 28 deg. 23.7' N, 80 deg. 29.2' W, when entering Port Canaveral or passes St. Mary's River Sea Buoy, at approximate position 30 deg. 40.8" N, 81 deg 11.8" W, when entering the Port of Fernandina. Fixed security zones are established 100 yards around all tank vessels, cruise ships, and military pre-positioned ships docked in the Ports of Jacksonville, Fernandina, and Canaveral, Florida.

#### Discussion of Comments and Changes

We received one comment on the proposed rule from the Florida Department of Transportation (FDOT), Seaport Office. FDOT expressed concern that the regulation, if implemented, would not provide security for sensitive

land-based resources, such as waterfront storage tanks and petroleum facilities. FDOT's concern for shore-based resources is shared by the Coast Guard and is being addressed at the national level through separate security measures. See *Maritime Security*, 67 FR 79742 (Dec. 30, 2002) (Notice of public meetings on Coast Guard national maritime security measures, including in Jacksonville, FL, on Feb. 7, 2003.)

A second concern from FDOT was that the NPRM did not prove that such a zone would prevent sabotage or terrorist acts. The Coast Guard has concluded that this rule is a necessary measure to protect certain high-risk vessels on the navigable waterways of the United States. The 100-yard security zones, although not guaranteed to eliminate all risk of sabotage or terrorist acts, will significantly reduce vulnerability and provide an enforcement mechanism if a violation occurs.

The third and final concern expressed by FDOT was that this rule would cause disruption to the movement of people and goods. First, this rule has been in place since September 2001 in the Jacksonville area and has not caused any noticeable disruption to maritime trade and transportation. Secondly, the Captain of the Port has discretion to allow a vessel to transit a security zone, if deemed necessary, to promote safe and efficient marine transportation. The environment in which the maritime industry operates has dramatically changed since September 2001. The Coast Guard believes these types of security zones, which only extend 100 yards around certain vessels, create the appropriate balance between efficient maritime transportation and necessary security in our new environment.

No changes were made to the proposed rule as a result of the comment received.

#### 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) because the impact of this rule on commercial and recreational vessel navigation is minimal because most vessels will be able to transit around these zone and the Captain of the Port