

## 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 (34)(h), of the

Instruction, from further environmental documentation. An “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

## List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## PART 100—MARINE EVENTS & REGATTAS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary section 100.35T–07–116 is added to read as follows:

### § 100.35T–07–116 Offshore Super Series Boat Race; St. Petersburg Beach, FL.

(a) *Regulated Area.* The regulated area for the Offshore Super Series Boat Race encompasses all waters of St. Petersburg Beach, Florida in the vicinity of the Don Cesar Hotel, located within a line connecting the following points (NAD 83):

- 1: 27°43'26" N, 82°44'35" W;
- 2: 27°43'37" N, 82°46'03" W;
- 3: 27°43'12" N, 82°46'12" W;
- 4: 27°41'27" N, 82°45'32" W.
- 5: 27°41'14" N, 82°44'20" W; along the contour of the shore and returning to point 1.

(b) *Special local Regulations.* Non-participant vessels and persons are prohibited from entering the Regulated Area as defined in paragraph (a) unless authorized by the Coast Guard Patrol Commander or their designated representative.

(c) *Enforcement Period.* This rule will be enforced from 10:30 a.m. to 5:30 p.m. on November 16, 17, 19, and 20, 2005.

(d) *Effective Period.* This rule is effective from 10:30 a.m. on November 16, 2005 through 5:30 p.m. on November 20, 2005.

Dated: October 28, 2005.

**D. B. Peterman,**

*RADM, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 05–22390 Filed 11–9–05; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[CGD05–05–049]

RIN 1625–AA09

### Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations that govern the operation of the Berkley Bridge across the Eastern Branch of the Elizabeth River, mile 0.4, in Norfolk, Virginia. The final rule will extend the morning and evening rush hour closure periods so that the morning rush hour period starts at 5 a.m. and ends at 9 a.m., and the evening rush hour starts at 3 p.m. and ends at 7 p.m., Monday through Friday, except Federal holidays. The rule will also reduce the deep-draft commercial vessel requirement to 18 feet and the advance notice period to 6 hours. This change will relieve vehicular traffic congestion during the weekday rush hours while still providing for the reasonable needs of navigation.

**DATES:** This rule is effective December 12, 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 CGD05–05–049 and are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Gary S. Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6629.

### SUPPLEMENTARY INFORMATION:

#### Regulatory History

On June 8, 2005, we published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA” in the **Federal Register** (70 FR 33405). We received two comments on the proposed rule. No public meeting was requested, and none was held.

#### Background and Purpose

On behalf of the City of Norfolk, the Virginia Department of Transportation

(VDOT) who owns and operates this lift-type bridge, requested a change to the existing regulations for the Berkley Bridge. The current regulation, found at 33 CFR 117.1007, allows the Berkley Bridge, at mile 0.4 in Norfolk, 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. It also mandates that the bridge shall open on signal any time except from 5:30 a.m. to 9 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays; shall open at any time for commercial vessels with a draft of 22 feet or more, provided at least 12 hours advance notice has been given to the Berkley Bridge Traffic Control Room at (804) 494-2424, and open on signal at any time for a vessel in distress.

This final rule changes the regulations by extending the rush hour closure periods, by reducing the advance notice requirement to 6 hours for deep-draft vessels, and by “cleaning up” the remaining regulatory text to remove redundancy. These changes will help to alleviate the current traffic congestion. The Berkley Bridge is a principle arterial route that serves as the major evacuation highway in the event of emergencies or evacuations. Weekday vehicular traffic counts submitted by VDOT revealed that in 2002 and 2003, the Berkley Bridge has experienced a six percent (or 78,898 car) increase in traffic flow during the morning and evening rush hours.

Also on September 18, 2003, the Hampton Roads area experienced severe damage as a result of Hurricane Isabel. Due to a heavy storm surge along the entire coastal area, the Portsmouth Midtown Tunnel was flooded. While the tunnel was undergoing an evaluation and repairs, a significant amount of vehicular traffic that used the tunnel on a daily basis was shifted onto the Berkley Bridge. In its attempt to manage this increase in road traffic and associated safety concerns, VDOT requested an immediate expansion of the current authorized rush hour closure periods of the Berkley Bridge. Until the repairs were completed, the Coast Guard responded by issuing a temporary final rule that extended the morning and evening closure periods and suspended the provision allowing openings for deep-draft commercial vessels. The temporary final rulemaking implemented for the Berkley Bridge to stay open a little longer in the morning

and evening was successful in easing the commute for thousands of motorists.

Therefore, this final rule will help alleviate the growing vehicular traffic congestion and to increase public safety, while still balancing the needs of marine and vehicular traffic.

#### Discussion of Comments and Changes

The Coast Guard received one comment on the NPRM from the Hampton Roads Maritime Association and one from the C&P Tug and Barge Company. Both respondents opposed further restrictions to the Berkley Bridge presented in the NPRM and requested changes. The changes offered by the respondents would reduce the deep-draft commercial vessel requirement from 22 feet to 18 feet and the advance notice period from 12 hours to 6 hours. These changes would give deep-draft commercial vessel operators more flexibility to manage tide restrictions.

The Coast Guard considered these changes to be safer to navigation and the final rule was changed to reflect these modifications.

#### 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 expect the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that this rule will 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.

#### 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.

For the reasons stated above, the Coast Guard certifies under 5 U.S.C.

605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

#### 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. No assistance was requested from any small entity.

#### 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 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, eliminates 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 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 analyzed this rule under Commandant Instruction M16475.1D, 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 (3)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

### 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 § 117.1007, remove paragraphs (c)(3) and (c)(4) and revise paragraphs (c)(1) and (c)(2) to read as follows:

#### § 117.1007 Elizabeth River—Eastern Branch.

\* \* \* \* \*

(c) \* \* \*

(1) Shall open on signal at 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.

(2) From 5 a.m. to 9 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, shall open at any time for commercial 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.

Dated: November 2, 2005.

**L.L. Hereth,**

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

[FR Doc. 05-22388 Filed 11-9-05; 8:45 am]

**BILLING CODE 4910-15-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R09-OAR-2005-AZ-0007, FRL-7994-6]

#### Interim Final Determination to Stay and/or Defer Sanctions, Pinal County Air Quality Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination to stay and/or defer imposition of sanctions based on a proposed approval of a revision to the Pinal County Air Quality Control District (PACAQCD) portion of the Arizona State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern PCAQCD Rule 2-8-300.

**DATES:** This interim final determination is effective on November 10, 2005. However, comments will be accepted until December 12, 2005.

**ADDRESSES:** Submit comments, identified by docket number R09-OAR-2005-AZ-0007, by one of the following methods:

- Agency Website: <http://docket.epa.gov/rmepub/>. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.

- E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
- Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency website, eRulemaking portal, or e-mail. The agency website and eRulemaking portal are "anonymous access" systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://docket.epa.gov/rmepub/> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g.,