

from establishing and enforcing rules or taking any action that impairs the Federal superintendence of the manufactured home industry.

Conversely, section 623(a) of the Act (42 U.S.C. 5422(a)) provides:

Nothing in this [Act] shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established. \* \* \*

#### IV. Statement of Policy 1997-1

Generally, the adoption and enforcement of a local zoning ordinance regulating the location of manufactured homes has not been subjected to the regulatory authority of the Act because such actions are exercises of the locality's authority to determine proper land use. Under section 604(d) of the Act (42 U.S.C. 5403(d)), however, the locality is without authority to regulate or exclude certain manufactured homes through zoning ordinances or enforcement decisions that are based solely on a construction and safety code that is different from the Federal standards prescribed under the Act.

For example, assume two structures are brought into a locality and both structures are: 320 or more square feet when erected on site; built on a permanent chassis; and transported in one or more sections. If the locality only allows the structure that is built to the State or local building code to be sited outside an approved mobile home park, the locality would be acting without authority. If under the local zoning laws the locality accords the same treatment to all structures that meet the Act's definition of a "Manufactured home" (42 U.S.C. 5402(6)), the locality is not in conflict with the preemptive provisions of the Act.

Therefore, a locality cannot exclude or restrict manufactured homes that meet the Federal standards if the locality accepts manufactured homes meeting other standards. By excluding or restricting only manufactured homes built to the Federal standards and accepting manufactured homes built to State or local codes, the locality is establishing standards for manufactured homes that are different from the Federal standards. To the extent that the provisions or enforcement of local zoning regulations require that manufactured homes meet standards other than the Federal standards for manufactured homes, those local actions are preempted by section 604(d) of the Act (42 U.S.C. 5403(d)). Furthermore, such a system of local regulation and enforcement would

interfere with Federal superintendence of the manufactured home industry, in contravention of 24 CFR 3282.11(d).

Dated: April 24, 1997.

**Nicolas P. Retsinas,**  
*Assistant Secretary for Housing-Federal Housing Commissioner.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD05-96-101]

RIN 2115-AE47

#### Drawbridge Operation Regulations; Corson Inlet, Strathmere, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** At the request of the Cape May County Bridge Commission, the Coast Guard is changing the regulations that govern the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, by requiring a two-hour advance notice for drawbridge openings from October 1 to May 15 from 10 p.m. to 6 a.m., seven days a week. This final rule will help relieve the bridge owner of the burden of having a bridge tender constantly available at times when there are few or no requests for openings, while still providing for the reasonable needs of navigation.

**EFFECTIVE DATE:** This rule is effective on June 19, 1997.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this preamble are available for inspection and copying at the Office of the Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222.

**FOR FURTHER INFORMATION CONTACT:** Ann B. Deaton, Bridge Administrator, USCG Atlantic Area, at (757) 398-6222.

#### SUPPLEMENTARY INFORMATION:

##### Drafting Information

The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Administration Section, and CDR G. Shelton, Project Counsel, USCG Maintenance and Logistics Command Atlantic Legal Division.

## Regulatory History

On December 26, 1996, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Corson Inlet, Strathmere, New Jersey" in the **Federal Register** (61 FR 67970). The comment period ended February 24, 1997. No comments were received. No public hearing was requested, and none was held.

## Background and Purpose

The drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, is currently required to open on signal year round. The Cape May County Bridge Commission (Commission) requested that the operating schedule for the drawbridge be amended to reduce the periods during which the bridge must open on signal. In support of its request, the Commission contends that its records show that during the period from October 1 through May 15, no vessels required a drawbridge between the hours of 10 p.m. to 6 a.m.

The Coast Guard reviewed the Commission's bridge logs for 1992 through 1995, copies of which are included in the docket of this rulemaking. According to the logs, no openings occurred between the hours of 10 p.m. and 6 a.m. from October 1 through May 15 in any of these years.

Therefore, the Coast Guard is changing the regulations governing the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey. The final rule requires the bridge to open on signal from May 15 through September 30 and between 6 a.m. and 10 p.m. from October 1 through May 15. The bridge will also open between 10 p.m. and 6 a.m. from October 1 through May 15 if notice is given to the Cape May County Bridge Department at least two hours in advance of the time that the opening is requested. A sign will be posted at the bridge giving the Cape May County Bridge Department's 24-hour telephone number. The Coast Guard believes that this change relieves the bridge owner of the burden of having a bridge tender on duty during periods of little or no vessel traffic while not unduly restricting navigation.

## Discussion of Comments and Changes

The Coast Guard received no comments on the NPRM. Therefore, the proposed rule is being implemented without change.

## Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not

require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget 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 final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

#### Small Entities

This final rule does not restrict vessel navigation, but merely requires advance notice for a bridge opening during periods of limited vessel activity. Therefore, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2e (32)(e) of Commandant Instruction M16475.1B (as amended, 50 FR 38654, 29 July 1994), this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

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

Bridges.

#### Regulations

For the reasons set out in the preamble, the Coast Guard amends 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. A new § 117.714 is added to read as follows:

#### § 117.714 Corson Inlet.

The draw of the Corson Inlet bridge, mile 0.9, at Strathmere, shall open on signal; except that from October 1 through May 15, from 10 p.m. to 6 a.m., the draw need only open if at least two hours notice is given.

Dated: April 22, 1997.

**Kent H. Williams,**

*Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.*

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### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[COTP TAMPA–97–022]

RIN 2115–AA97

#### Safety Zone Regulations; Tampa Bay, Florida

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone from 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2 to include the entire width of subject channel to 27–52.06N, 082–35.00W for the South Gandy Channel Marker G4. Another boundary line extending from South Gandy Channel Marker G4 to 27–51.08N, 082–32.08W for the northern edge of Picnic Island and a boundary line extending from 27–50.08N, 082–33.03W for the southern edge of Picnic Island returning to 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2. This temporary safety zone has been established to facilitate the Tampa Bay Open Water Challenge 5k Swim. The temporary safety zone is necessary to protect race participants from vessel traffic that could result in injury to race participants. All vessels are prohibited from transiting the prescribed safety zone unless specifically authorized by the Captain of the Port Tampa, Florida.

**DATES:** These regulations become effective at 9 a.m. and terminate at 1 p.m. Eastern Daylight Savings Time (EDT) on May 10, 1997.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant David Murk, Coast Guard

Marine Safety Office Tampa at (813) 228–2189.

#### SUPPLEMENTARY INFORMATION:

#### Background and Purpose

Tampa Baywatch and Clearwater Aquatics Team are sponsoring the first of its kind 2.5 mile open water swimming race from Gandy Beach in Pinellas County to Picnic Island in Hillsborough County. The race participants will be transiting across the established safety zone between 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2 to include the entire width of subject channel to 27–52.06N, 082–35.00W for the South Gandy Channel Marker G4. Another boundary line extending from South Gandy Channel Marker G4 to 27–51.08N, 082–32.08W for the northern edge of Picnic Island and a boundary line extending from 27–50.08N, 082–33.03W for the southern edge of Picnic Island returning to 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2. The event is expected to last approximately 4 hours.

In accordance with 5 U.S.C. 553, a notice for proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Publishing a NPRM and delaying its effective date would be contrary to national safety interests since immediate action is needed to protect the race participants from injury associated with swimming events within Tampa Bay.

#### Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget 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 regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the area is prohibited for approximately 4 hours.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. “Small Entities” include