

is an inmate who has had an average daily trust fund account balance of less than \$6.00 for the past 30 days.

(b) An inmate without funds may obtain additional OTC medications at sick call if health services staff determine that he/she has an immediate medical need which must be addressed before the inmate may again apply for OTC medications under this section.

(c) To prevent abuses of this section (e.g., inmate shows a pattern of depleting his or her commissary funds before requesting OTC medications), the Warden may impose restrictions on the provisions of this section.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07-03-071]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Mile 964.8 at Fort Pierce, St. Lucie County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the regulations governing the operation of the Fort Pierce North Bridge, mile 964.8, Fort Pierce, Florida. Under this temporary final rule, the bridge need open only a single-leaf every 20 minutes. Double-leaf openings will be available on certain dates with a two-hour advance notice to the bridge tender. This temporary rule is required to allow the bridge owner to safely complete repairs to the bridge.

**DATES:** This rule is effective from 6 a.m. on August 1, 2003 to 8 p.m. on January 9, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD07-03-071, and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Branch at (305) 415-6744.

**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. Publishing an NPRM is impracticable and contrary to the public interest, because it would delay immediate and required repairs to the bridge.

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 contractor, PCL, needs to immediately perform necessary repairs to the bridge. In order to do the repairs and ensure worker and public safety, this temporary final rule is required. This temporary rule requires scheduled bridge openings, which provide for the reasonable needs of navigation, and will allow the contractor the time needed to safely repair the bridge.

### Background and Purpose

The Fort Pierce North Bridge, mile 964.8 at Fort Pierce, St. Lucie County, Florida, has a vertical clearance of 26 feet at mean high water and a horizontal clearance of 45 feet between the down span and the fender system. The existing operating regulations in 33 CFR 117.5 require the bridge to open on signal.

PCL Contractors notified the Coast Guard that work was needed on the bascule leaves of the Bridge beginning May 5, 2003, and continuing until January 9, 2004. The repair involves welding deck plates, painting, and rebalancing each leaf. In order to provide for worker and public safety, they requested a 20-minute single-leaf opening schedule. Additionally, since both leaves of the Bridge will be unable to open simultaneously, two-hours advance notice will be required to effect a double-leaf opening whenever necessary. However, from 6 a.m. on August 1, 2003, to 6 p.m. on August 10, 2003, the contractor will be performing counterweight girder modifications to the Bridge, and the Bridge will not be able to effect a double-leaf opening at any time during this period, but will open only a single-leaf. This temporary final rule will facilitate immediate and necessary repairs to the Bridge and address worker and public safety issues without significantly hindering navigation.

### Discussion of Rule

From 6:01 p.m. August 1, 2003, to 8 p.m. January 9, 2004, this temporary rule requires the Bridge to open a single-leaf on a 20-minute schedule and

provide double-leaf openings with two hours notice to the Bridge tender. This action is necessary to facilitate bridge repairs safely without significantly hindering navigation. During this time of year, the majority of vessels that require a double-leaf opening are traversing the open ocean, and not using the Intracoastal Waterway, due to favorable, seasonal weather.

### 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 Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary, because the rule will affect only a limited amount of marine traffic.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this temporary 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 would not have a significant economic impact on a substantial number of small entities, because the regulations will affect only marine traffic that require double-leaf bridge openings. The impact will be limited to providing a two-hour advance notice to the bridge tender for a double-leaf opening. For a short period, vessels that require double-leaf openings will not be able to pass through at all; however, these types of vessels would most likely be traversing the open ocean and not using the Intracoastal Waterway, due to favorable, seasonal weather.

### 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 temporary final rule so that they can better evaluate its effects on them and participate in the

rulemaking. If this temporary rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

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 temporary final 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 this rule 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 regulatory actions not specifically required by law. 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. Although this temporary rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in the 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 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.

### 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 (32)(e), of the Instruction, from further environmental documentation. Under figure 2-1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

### List of Subjects in 33 CFR Part 117

Bridges.

■ 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 authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. From 6 a.m. on August 1, 2003, until 8 p.m. on January 9, 2004, § 117.261, a new paragraph (m) is added to read as follows:

#### § 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

\* \* \* \* \*

(m) The North Bridge, mile 964.8 at Fort Pierce, need open only a single-leaf on the hour, 20-minutes after the hour, and 40-minutes after the hour, except that, from 6:01 p.m., August 10, 2003, until 8 p.m., January 9, 2004, both leaves of the bridge will open if the bridge tender receives a two-hour advance notice requesting a double-leaf opening.

\* \* \* \* \*

Dated: July 28, 2003.

**H.E. Johnson, Jr.,**

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

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD08-03-031]

#### Drawbridge Operating Regulation; Illinois Waterway, Joliet, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Chicago, Rock Island and Pacific Railway Drawbridge, across the Illinois Waterway, mile 287.6 at Joliet, Illinois. This deviation allows the drawbridge to remain closed to navigation for six separate increments starting at 7 a.m., September 15, 2003, and ending at 7 p.m., September 26, 2003, Central Standard Time. The deviation is