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**Anthony M. Wylie,**

*Acting Area Director, Alaska Flight Services Area Office.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-04-215]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Chincoteague Channel, Chincoteague, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulations that govern the operation of the SR 175 Bridge, at mile 3.5, at Chincoteague, Virginia. The proposal would require hourly openings of the draw from 6 a.m. to Midnight year-round; except from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July, the draw need not be opened. At all other times, the draw need not open. The proposed change would reduce vehicular traffic congestion to increase public safety and to extend the structural and operational integrity of the movable span while still balancing the needs of marine and vehicular traffic.

**DATES:** Comments and related material must reach the Coast Guard on or before February 14, 2005.

**ADDRESSES:** You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

**SUPPLEMENTARY INFORMATION:**

#### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05-04-215, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment period. We may change this proposed rule in view of them.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

The Virginia Department of Transportation (VDOT) owns and operates this swing-type bridge. The current regulation requires the SR 175 Bridge, mile 3.5, at Chincoteague to open on signal except the draw may remain in the closed position to vessels from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July of every year.

On behalf of the Chincoteague Town Council (the Council), residents and business owners in the area, VDOT has requested a change to the existing regulations for the SR 175 Bridge. This proposal is an effort to schedule the number of drawbridge openings thereby reducing traffic congestion for public safety. By scheduling the number of openings this proposal will also extend the structural and operational integrity of the movable span, while balancing the needs of mariners and vehicular traffic transiting in and around this seaside resort area. SR 175 highway is also the principal arterial route that serves as the major evacuation highway in the event of emergencies or tidal flooding.

On June 28, 2004, we published a notice of temporary deviation from the regulations and request for comments entitled "Drawbridge Operation Regulations; Chincoteague Channel,

VA" in the **Federal Register** (69 FR 36011). The temporary deviation was an operation to test an alternate drawbridge operation schedule for 90 days and to solicit comments from the public. In accordance with the temporary deviation, from July 2, 2004 through September 29, 2004, the draw of the bridge opened every two hours on the even hour from 6 a.m. to midnight; except from 7 a.m. to 5 p.m., on the last consecutive Wednesday and Thursday of July, the draw need not be opened. Finally, at all other times, the draw was not opened.

The Coast Guard received six letters and four petitions commenting on the provisions of the temporary deviation. Several comments from residents of the Town of Chincoteague favored the two-hour opening schedule. The commercial vessel owners favored a less restrictive hourly opening schedule. To ease vehicular traffic congestion, VDOT requested the movement of marine traffic be regulated. The Coast Guard reviewed the vehicle traffic information and bridge logs provided by VDOT. Bridge opening log data from 2001 to 2003 revealed that the highest concentration of vessel and vehicular traffic occurred during the peak tourist season from April to October. VDOT submitted a weekly vehicular traffic count for August 2004. The eastbound and westbound traffic counts revealed for August 19, 20, 21 and 22, that approximately 8150, 9729, 8365 and 7447 vehicles cross the SR 175 Bridge, respectively.

VDOT records reveal an increase in yearly bridge openings. For 2001 to 2003, the bridge opened for vessels 1789, 2063 and 2337 times during these years, respectively. During the peak tourist season for the same period, the bridge opened for vessels 1356, 1558 and 1761 times, respectively. With an average of only 12 openings per day (yearly) or approximately one opening per hour, restricting openings of the drawbridge hourly from 6 a.m. to midnight is not expected to seriously disrupt marine traffic, and is expected to substantially reduce vehicular traffic congestion.

This change is being requested to make the operation of the SR 175 Bridge more efficient. It will reduce vehicular traffic congestion to increase public safety and to extend the structural and operational integrity of the movable span while still balancing the needs of marine and vehicular traffic.

#### Discussion of Proposed Rule

The Coast Guard proposes to amend the regulations governing the SR 175 Bridge, mile 3.5, at Chincoteague, which

currently operates on signal, except the draw may remain in the closed position to vessels from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July of every year. At all other times, the draw need not open. The Coast Guard proposes to amend 33 CFR § 117.1005 by inserting a new provision, which would limit the required openings of the draw year-round from 6 a.m. to midnight to once an hour with closure periods from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July of every year; and at all other times, the draw need not open.

### Regulatory Evaluation

This proposed 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 proposed 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 the proposed changes 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 proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the

scheduled bridge openings can minimize delay.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### Collection of Information

This proposed rule would call 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed 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 proposed rule is categorically excluded, under figure 2–1, paragraph (32)(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 proposes to amend 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. Section 117.1005 is revised to read as follows:

##### § 117.1005 Chincoteague Channel.

The draw of the SR 175 Bridge, mile 3.5, at Chincoteague shall open on the hour from 6 a.m. to Midnight; except that from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July of every year and from Midnight to 6 a.m. every day the draw need not be opened.

Dated: December 20, 2004.

#### Ben R. Thomason,

*Captain, U. S. Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 04–28548 Filed 12–29–04; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[NM–44–1–7603b; FRL–7856–4]

#### Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Recodification and SIP Renumbering of the New Mexico Administrative Code for Albuquerque/Bernalillo County

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Governor of New Mexico on May 2, 2003. The submittal revises the numbering and format of New Mexico's Albuquerque/Bernalillo County SIP and contains no substantive changes to the regulations. We are approving these revisions in accordance with the requirements of the Federal Clean Air Act (the Act).

**DATES:** Written comments must be received by January 31, 2005.

**ADDRESSES:** Comments may be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Carrie Paige, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6521; fax number 214–665–7263; email address [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no relevant adverse comments, the EPA will not take further action on this proposed rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in

commenting on this action must do so at this time.

For additional information, see the direct final rule which is located in the "Rules and Regulations" section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 16, 2004.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 04–28502 Filed 12–29–04; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

#### Research and Special Programs Administration

#### 49 CFR Part 173

[Docket No. RSPA–99–6223 (HM–213B)]

RIN 2137–AD36

#### Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** RSPA is proposing to amend the Hazardous Materials Regulations to prohibit flammable liquids from being transported in unprotected product piping on existing and newly manufactured DOT specification cargo tank motor vehicles. If adopted as proposed, this action will reduce fatalities and injuries that result from accidents involving unprotected product piping. This proposal was developed jointly with the Federal Motor Carrier Safety Administration.

**DATES:** Comments must be received by February 28, 2005.

**ADDRESSES:** You may submit comments identified by the docket number RSPA–99–6223 (HM–213B) by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1–202–493–2251.
- Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

- Hand Delivery: To the Docket Management System; Room PL–401 on