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Dated: January 3, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117****[CGD05-95-029]****RIN 2115-AE47****Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Elizabeth River, Southern Branch, Chesapeake, VA****AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: At the request of the City of Chesapeake, the Coast Guard is changing the regulations that govern the operation of the Dominion Boulevard drawbridge across the Southern Branch of the Elizabeth River, Atlantic Intracoastal Waterway, mile 8.8, at Chesapeake, Virginia, by extending the period of restricted bridge openings for recreational vessels during the morning rush hours. It is also eliminating language referring to an evening rush hour opening for waiting recreational boats. This rule is intended to provide for regularly scheduled drawbridge openings to help reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This rule is effective on February 22, 1996.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398-6222.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Section, and CDR T.R. Cahill, Project Counsel, Fifth Coast Guard District Legal Office.

Regulatory History

On July 20, 1995, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Elizabeth River, Southern Branch, Chesapeake, Virginia" in the Federal

Register (60 FR 37417). In addition to publishing the NPRM, the Coast Guard also announced the proposed changes in Public Notice 5-860. The comment period ended October 18, 1995. Two comments were received. A public hearing was not requested and one was not held.

Background and Purpose

The Dominion Boulevard Bridge, also known as the Steel Bridge, crosses the Atlantic Intracoastal Waterway, Southern Branch of the Elizabeth River, mile 8.8. The proposed changes were requested by the City of Chesapeake, Virginia, in order to alleviate delays to vehicle traffic caused by opening the draw for passage of recreational vessels.

Discussion of Comments and Changes

The NPRM proposed changes to 33 CFR 117.997, regulations governing operation of a drawbridge across the Southern Branch of the Elizabeth River on Dominion Boulevard (Route 190), in Chesapeake, Virginia. The proposed changes included extending the morning rush hour period of restricted openings from 8 a.m. to 9 a.m. and eliminating language referring to a 5 p.m. opening for waiting recreational vessels.

Two comments were received on the proposed changes, one from a commercial waterway user and one from a recreational boater. Both comments objected to the proposed changes. A commercial waterway user requested that the hours of restriction apply only to openings for recreational vessels, and not to openings for commercial vessels. The NPRM did not propose changes to bridge openings for commercial vessels, and this final rule does not change the previous requirement. The draw will continue to open on signal for commercial vessels.

A recreational boater asked that the Coast Guard schedule openings for recreational vessels during the hours of restricted openings. The Coast Guard does not agree. As a result of urban development, Dominion Boulevard has become a heavily-travelled commuter thoroughfare. Bridge openings during rush hours severely disrupt vehicular traffic. The purpose of the proposed changes is to establish a schedule that balances the reasonable needs of waterway users and the reasonable needs of vehicular traffic. The Coast Guard believes that the proposed changes will improve the flow of motor traffic and diminish vehicular delay while not unduly restricting the passage of recreational vessels. A boat would have to wait no more than two hours for the next opening, and a recreational

vessel owner may plan the vessel's transit based on the hours of unrestricted openings.

This final rule adopts the changes proposed in the NPRM. It extends the end morning rush hour period of restricted openings from 8 a.m. to 9 a.m. The morning rush hour period of restricted openings will now run from 7 a.m. to 9 a.m. The evening rush hour period will continue to run from 4 p.m. to 6 p.m., and a provision specifically referring to a 5 p.m. opening for waiting recreational vessels is eliminated. The draw will continue to open on signal for passage of commercial vessels. It will also continue to open at any time for passage of vessels in emergencies involving danger to life or property.

This final rule also includes an editorial change to make 33 CFR 117.997 consistent with Coast Guard bridge administration policies. Coast Guard policy is to specify, by regulation, the periods of time and conditions for which a bridge must open for passage of vessels. By implication, the bridge may remain closed except as specified. However, the Coast Guard does not require that a bridge remain closed, and a bridge owner or operator may open the bridge even though not required to do so. Therefore, in 33 CFR 117.997(e)(1), this final rule adopts language to indicate that the bridge "need not" open for passage of recreational vessels during the specified periods, rather than indicate that it may not open during those periods.

Regulatory Evaluation

This 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 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

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify

as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, 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.

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 it has been determined that this rule will 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.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, July 29, 1994), this 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

In consideration of the foregoing, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations to read 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. In § 117.997, paragraph (e) is revised to read as follows:

§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albermarle and Chesapeake Canal.

* * * * *

(e) The draw of the Dominion Boulevard Bridge, mile 8.8, in Chesapeake shall open on signal, except:

(1) From 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the drawbridge

need not open for the passage of recreational vessels.

(2) Vessels in an emergency involving danger to life or property shall be passed at any time.

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Dated: December 26, 1995.

W.J. Ecker,

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

[FR Doc. 96-723 Filed 1-22-96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 291

RIN 0596-AB43

Occupancy and Use of Developed Sites and Areas of Concentrated

Public Use; Expanded Locations Where Admission Fees May Be Charged

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule expands the locations at which the Forest Service may charge admission fees under the provisions of section 4(a) of the Land and Water Conservation Fund Act of 1965, as amended. The Forest Service previously had statutory authority to charge admission fees only at congressionally designated National Recreation Areas administered by the Secretary of Agriculture. This final rule implements the 1993 amendments to the Land and Water Conservation Fund Act of 1965 that provide additional authority to charge admission fees at congressionally designated National Monuments, National Volcanic Monuments, National Scenic Areas, and no more than 21 areas of concentrated public use designated by the Forest Service. The intended effect of this final rule is to conform the existing rule to the statutory amendments.

EFFECTIVE DATE: This rule is effective January 23, 1996.

FOR FURTHER INFORMATION CONTACT: Joe Meade, (202) 205-1129, Recreation, Heritage, and Wilderness Resources Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090-6090.

SUPPLEMENTARY INFORMATION: Before it was amended in 1993, the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) authorized the Secretary of Agriculture to charge admission fees at National Recreation Areas. That authority is implemented

through regulations at 36 CFR Part 291, Occupancy and Use of Developed Sites and Areas of Concentrated Public Use.

In his report, "A Vision of Change for America," President Clinton made clear his intention to increase revenues from use of recreational facilities on public lands. As part of his fiscal year 1994 budget package, the President transmitted proposed legislation to Congress that would permit the Secretary of Agriculture to charge admission fees at National Monuments, National Volcanic Monuments, National Scenic Areas, and no more than 21 areas of concentrated public use, in addition to National Recreation Areas. Congress endorsed this proposal in the passage of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66), which includes such provisions. The act at 16 U.S.C. 4601-6a(a) defines an area of concentrated public use as an area that is managed primarily for outdoor recreation purposes, contains at least one major recreation attraction where facilities and services necessary to accommodate heavy public use are provided, and provides public access to the area in such a manner that admission fees can be efficiently collected at one or more centralized locations.

After this rule takes effect, the Chief of the Forest Service will make a determination of no more than 21 areas of concentrated public use where fees may be charged. The Chief's determination will be used on recommendations from the field units by Regional Foresters of areas that meet criteria in the preceding definition from the act and requirements in this rule. The agency policy and procedures related to this rule and to the field units' review and recommendation of areas are being issued in an amendment to Forest Service Manual chapter FSM 2330, Publicly Managed Recreation Opportunities. This amendment is available upon request from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Compliance with Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act, the Forest Service has determined that publication of this rule for notice and comment prior to adoption is unnecessary. This final rule makes minor technical changes in the existing regulations at 36 CFR Part 291 so that they conform with the Land and Water Conservation Fund Act, as amended by the Omnibus Budget Reconciliation Act of 1993. This rulemaking does not supplement or make major changes in