

U.S. Department of
Homeland Security

United States
Coast Guard



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OCT 14 2009

PUBLIC NOTICE 5-1158

TO WHOM IT MAY CONCERN:

**SUBJECT: NOTICE OF TEMPORARY DEVIATION FROM REGULATIONS;
REQUEST FOR COMMENTS GOVERNING THE OPERATION OF THE
BERKLEY BRIDGE ACROSS THE EASTERN BRANCH OF THE
ELIZABETH RIVER IN NORFOLK VA.**

The Coast Guard has approved a temporary deviation to test an alternate drawbridge operation regulation at the Berkley Bridge, at mile 0.4, across the Eastern Branch of the Elizabeth River in Norfolk VA. **Effective from 9 a.m. on October 9, 2009 through 2:30 p.m. on March 9, 2010, the draw of the bridge to open on signal to vessels at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m., Monday through Friday, except Federal holidays. However, to clearly display these effective regulations to vessel owners and operators, signs must be posted on the upstream and downstream sides of the bridge by October 24, 2009.** The purpose of this temporary deviation will test a change in the drawbridge operation schedule to determine whether a schedule change is needed and to solicit comments from the public. **A copy of the Docket USCG-2009-0754 published in the Federal Register on October 9, 2009, as a temporary deviation is included as enclosure (1) to this notice.**

Interested parties are requested to express their views, in writing, on the temporary deviation to the operating regulations. Comments will be received for the record at the office of the Commander (dpb), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. Written comments on this proposal must be submitted on or before **December 8, 2009.**

It is requested that this information be brought to the attention of any person having a possible interest in the temporary deviation to the regulations who may not have received a copy of this Public Notice.

A handwritten signature in cursive script that reads "Waverly W. Gregory, Jr.".

WAVERLY W. GREGORY, JR.
Chief, Bridge Administration Branch
By direction of the Commander
Fifth Coast Guard District

[FR Doc. E9-24135 Filed 10-8-09; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2009-0754]

Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Berkley Bridge across the Eastern Branch of the Elizabeth River, mile 0.4, at Norfolk, Virginia. This deviation will test a change in the drawbridge operation schedule to determine whether a schedule change is needed.

DATES: This deviation is effective from 9 a.m. on October 9, 2009 through 2:30 p.m. on March 9, 2010.

Comments and related material must be received by the Coast Guard on or before December 8, 2009.

ADDRESSES: You may submit comments identified by docket number USCG-2009-0754 using any one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>.

- **Fax:** 202-493-2251.
- **Mail:** Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

- **Hand delivery:** Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Waverly Gregory, Bridge Administrator, Fifth Coast Guard District, telephone 757-398-6222, e-mail Waverly.W.Gregory@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include

any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0754), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2009-0754," click "Search," and then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than

8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2009-0754" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the *Federal Register* (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain 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

On behalf of the Cities of Chesapeake and Norfolk, Virginia, the Virginia Department of Transportation (VDOT) who owns and operates the lift-type Berkley Bridge has requested a temporary deviation to the existing bridge regulations. The normal operating schedule allows the Berkley Bridge, mile 0.4, with a vertical clearance of 48 feet at mean high tide in Norfolk, Virginia, to remain closed one hour prior to the published start of a scheduled marine event regulated under 33 CFR 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. In addition, the bridge shall open on signal 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, and shall open at any time for 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 as required by 33 CFR 117.1007(b) and (c).

Vessel traffic on this waterway consists of pleasure craft, tug and barge traffic, and ships with assist tugs seeking repair yards. There is no alternate waterway route around the bridge.

Due to the temporary closure of two area bridges, this bridge and its approaches has experienced vehicular traffic back-ups, delays, and congestion. By adjusting the scheduled bridge openings, we anticipate a decrease in vehicular traffic congestion during the daytime hours. During this test deviation, VDOT will gather data from the scheduled openings, along with vessel counts, to compare, evaluate, and monitor both old and new traffic patterns in hope of reducing roadway congestion on the bridge and local commuting area by adjusting bridge openings to ensure any future regulation will not have a significant impact on navigation.

The Berkley Bridge is the principle arterial route in and out of the City of Norfolk and serves as the major evacuation highway in the event of emergencies. According to vehicular traffic counts submitted by VDOT for the last quarter of calendar year 2008 the average daily traffic volumes at the Berkley Bridge are as shown below:

October	2008	83,296	vehicles.
November		2008	99,643	vehicles.
December		2008	106,856	vehicles.

The traffic counts reveal that from October 2008 to December 2008, the Berkley Bridge has experienced a seven percent (or 23,560-car) increase in traffic flow during the morning and evening rush hours. The Coast Guard anticipates a continued increase in vehicular traffic over the bridge due to the previously referenced temporary closure of two area bridges and anticipates that traffic will subside when those bridges return to service.

A Notice of Proposed Rulemaking, USCG-2009-0754, is being issued in conjunction with this Temporary Deviation to obtain additional public comments.

The Coast Guard will evaluate public comments from this Temporary Test Deviation and the above-referenced Notice of Proposed Rulemaking to determine if a proposed temporary change to the drawbridge operating regulation is warranted for the duration of the project.

The Test Schedule

From 9 a.m. on October 9, 2009 through 2:30 p.m. on March 9, 2010, the draw shall open on signal at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m., Monday through Friday, except Federal holidays. At all other times, the drawbridge will operate in accordance with the current operating regulations outlined in 33 CFR 117.1007(b) and (c).

During this test deviation, VDOT will gather data from the scheduled openings, along with vessel counts, to compare, evaluate, and monitor both old and new traffic patterns in hope of reducing roadway congestion on the bridge and local commuting area by adjusting bridge openings to ensure a future regulation will not have a significant impact on navigation.

Additional Information

This deviation has been coordinated with the main commercial waterway user group that has vessels transiting in this area and there is no expectation of any significant impacts on navigation. Vessels with a mast height of less than 48 feet can pass underneath the bridge in the closed position. There are no alternate waterway routes.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 20, 2009.

Wayne E. Justice,

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

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