

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Tule Lake Vertical Lift Span Highway and Railroad Bridge across the Corpus Christi—Port Aransas Channel, mile 14.0, at Corpus Christi, Nueces County, TX. This deviation allows the bridge to remain closed to navigation on two days. The deviation is necessary to replace haul ropes on the drawbridge.

**DATES:** This deviation is effective from 7 a.m. on Friday, February 27, 2004, through 7 a.m. on Sunday, February 29, 2004.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Marcus Redford, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The Port of Corpus Christi Authority has requested a temporary deviation in order to remove and replace the haul ropes of the Tule Lake vertical lift span bridge across Corpus Christi—Port Aransas Channel, mile 14.0 at Corpus Christi, Nueces County, Texas. The replacement of the haul ropes will bring the bridge into compliance with the American Society of Mechanical Engineers guidelines. This temporary deviation will allow the bridge to remain in the closed-to-navigation position continuously for 48 hours from 7 a.m. on Friday, February 27, 2004, through 7 a.m. on Sunday, February 29, 2004.

The vertical lift span bridge has a vertical clearance of 9.0 feet above mean high water, elevation - 1.0 feet Mean Sea Level and 11.0 feet above mean low water, elevation - 1.0 Mean Sea Level in the closed-to-navigation position. Navigation at the site of the bridge consists mainly of oil tankers and tows with barges. There is no recreational pleasure craft usage at the bridge site. Due to prior experience, as well as coordination with water way users, it has been determined that this two-day closure will not have a significant effect on these vessels. The bridge normally opens to pass navigation an average of 850 times per month. The bridge opens

on signal as required by 33 CFR 117.5. The bridge will not be able to open for emergencies during the closure period. Alternate routes are not available.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 27, 2004.

**Marcus Redford,**

*Bridge Administrator.*

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**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08-04-002]

RIN 1625-AA09

#### Drawbridge Operation Regulation; East Pascagoula River, Pascagoula, MS

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing the existing drawbridge operation regulation for the draw of the U.S. 90 bascule span bridge across the East Pascagoula River, mile 1.8 at Pascagoula, Jackson County, Mississippi. A replacement bridge has been constructed and the existing bridge has been removed. Since the bridge has been removed, the regulation controlling the opening and closing of the bridge is no longer necessary.

**DATES:** This rule is effective February 4, 2004.

**ADDRESSES:** Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130-3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:**

Philip Johnson, Bridge Administration Branch, at (504) 589-2965.

**SUPPLEMENTARY INFORMATION:**

#### Good Cause for Not Publishing an NPRM

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. Public comment is not necessary since the purpose of the affected regulation is to control the opening and closing of a bridge that has been removed.

#### Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register** for the same reasons stated in the preceding paragraph.

#### Background and Purpose

The State of Mississippi (Department of Transportation) has constructed a bridge of modern safe design to replace the existing bascule span bridge. The bascule span bridge that had previously serviced the area has been removed. The regulation governing the operation of the swing bridge is found in 33 CFR 117.682. The purpose of this rule is to remove 33 CFR 117.682 from the Code of Federal Regulations.

#### 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).

This rule removes a regulation that is obsolete because the bridge it governs no longer exists.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 will not have a significant economic impact on a substantial number of small entities.

This rule will have no impact on any small entities because the regulation being removed applies to a bridge that no longer exists.

### 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 rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 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 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 rule will 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 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 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 cause an environmental risk to health or risk to safety that may 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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.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 rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental documentation. Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of NEPA.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ For the reasons set out in the preamble, the Coast Guard is amending 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; 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.

#### § 117.682 [Removed]

■ 2. Section 117.682 is removed.

Dated: January 27, 2004.

**R.F. Duncan,**

*Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.*

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05-03-113]

RIN 1625-AA00

#### Security Zone; Salem and Hope Generating Stations, Delaware River, Salem, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a security zone in the Captain of the Port, Philadelphia, PA zone, immediately adjacent to the nuclear power facility at Salem and Hope Creek Generating Stations. This zone is needed to ensure public safety and security from subversive or terrorist acts. This rule is intended to prevent terrorist attacks against nuclear power facilities by denying entry into this zone unless authorized by the Captain of the Port, or their designated representative.

**DATES:** This rule is effective March 5, 2004.

**ADDRESSES:** Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket CGD05-03-113, which is available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania 19147