

(e) *Relationship to Continued Health Care Benefits Program.* If at the time a member enrolls in TRICARE Reserve Select, or resumes TRICARE Reserve Select coverage after a period in which coverage was superseded under paragraph (c)(3)(iii) of this section, the member was also eligible to enroll in the Continued Health Care Benefits Program (CHCBP) under § 199.20(d)(1)(i) of this part (except to the extent eligibility in CHCBP was affected by enrollment in TRICARE Reserve Select), enrollment in TRICARE Reserve Select will be deemed to also constitute preliminary enrollment in CHCBP. If for any reason the member becomes disenrolled from TRICARE Reserve Select before the date that is 18 months after discharge or release from the most recent period of active duty upon which CHCBP eligibility was based, the member or the member's family members eligible to be included in CHCBP coverage may, within 30 days of the effective date of the disenrollment, begin CHCBP coverage by paying the applicable premium. The period of coverage will be as provided in § 199.20(d)(6) of this part.

(f) *Preemption of State laws.* (1) Pursuant to 10 U.S.C. 1103, the Department of Defense has determined that in the administration of chapter 55 of title 10, U.S. Code, preemption of State and local laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods is necessary to achieve important Federal interests, including but not limited to the assurance of uniform national health programs for military families and the operation of such programs at the lowest possible cost to the Department of Defense, that have a direct and substantial effect on the conduct of military affairs and national security policy of the United States. This determination is applicable to contracts that implement this section.

(2) Based on the determination set forth in paragraph (e)(1) of this section, any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TRICARE Reserve Select. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to TRICARE Reserve Select. (However, the Department of Defense may, by contract, establish legal obligations on the part of DoD contractors to conform with requirements similar to or identical to requirements of State or local laws or

regulations with respect to TRICARE Reserve Select.)

(3) The preemption of State and local laws set forth in paragraph (e)(2) of this section includes State and local laws imposing premium taxes on health insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods, within the meaning of 10 U.S.C. 1103. Preemption, however, does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For the purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

(g) *Administration.* The ASD(HA) may establish other rules and procedures for the effective administration of TRICARE Reserve Select, and may authorize exceptions to requirements of this section, if permitted by law, based on extraordinary circumstances.

Dated: March 11, 2005.

**Jeannette Owings-Ballard,**  
*OSD Federal Register Liaison Officer,*  
*Department of Defense.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-04-129]

RIN 1625-AA09

#### Drawbridge Operation Regulations: Townsend Gut, ME

**AGENCY:** Coast Guard, DHS.  
**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard has temporarily changed the drawbridge operation regulations that govern the operation of the SR 27 Bridge, at mile 0.7, across Townsend Gut, between Boothbay Harbor and Southport, Maine. This temporary rule requires the bridge to open at specific times between 6 a.m. and 6 p.m., each day, from March 14, 2005 through November 30, 2005.

Additionally, this temporary rule would also allow four 4-day closures during the effective period of this rule when the bridge may remain in the closed position. This action is necessary to help facilitate rehabilitation construction at the bridge.

**DATES:** This rule is effective on March 14, 2005, through November 30, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-04-129) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On January 5, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 773).

We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

The Coast Guard believes making this final rule effective less than 30 days after publication is reasonable because the bridge rehabilitation construction is necessary vital work that needs to be performed as soon as possible.

Any delay in making this final rule effective would not be in the best interest of public or safety because performing this work during the non-winter months March 14, 2005 through November 30, 2005, is the best time period during which construction personnel may work in a more safe and productive manner to help restore the SR 27 Bridge to a more safe and reliable operational status.

##### Background and Purpose

The SR 27 Bridge has a vertical clearance of 10 feet at mean high water, and 19 feet at mean low water in the closed position. The existing drawbridge operating regulations under 33 CFR 117.5 require the bridge to open on signal at all times.

The bridge owner, Maine Department of Transportation, has requested a

temporary rule to allow the bridge to open at specific times of either two or three hour intervals between 6 a.m. and 6 p.m., from March through November 2005.

The purpose of this temporary regulation is to help facilitate rehabilitation construction at the bridge. Frequent unscheduled bridge openings would greatly limit the progress of the rehabilitation project.

On January 5, 2005, we published a notice of proposed rulemaking (70 FR 773) with an effective period from March 1, 2005 through November 30, 2005. Subsequent to publication of the notice of proposed rulemaking the bridge owner advised us that they would not begin the rehabilitation construction work until March 14, 2005. As a result we have changed the effective period for this temporary final rule to be effective from March 14, 2005 through November 30, 2005.

Under this temporary final rule the SR 27 Bridge shall operate as follows:

From March 14, 2005 through May 26, 2005, and from September 6, 2005 through November 30, 2005, the draw shall open on signal every three hours at 6 a.m., 9 a.m., 12 p.m., 3 p.m. and 6 p.m., daily. From 6 p.m. to 6 a.m. and on holidays, the draw shall open on signal.

From May 27, 2005 through September 5, 2005, the draw shall open on signal every two hours at 6 a.m., 8 a.m., 10 a.m., 12 p.m., 2 p.m., 4 p.m., and 6 p.m., daily. From 6 p.m. through 6 a.m. and holidays, the draw shall open on signal.

In addition, this temporary rule would also allow bridge to remain in the closed position for four 4-day closures as follows: April 11, 2005 through April 14, 2005; April 25, 2005 through April 28; May 9 through May 12; May 23 through May 26; May 9 through May 12, and May 23 through May 26, 2005.

#### **Discussion of Comments and Changes**

The Coast Guard received no comments in response to the notice of proposed rulemaking. We changed the effective date of this final rule from March 1, 2005 to March 14, 2005, upon learning that work would not commence as originally scheduled.

#### **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 conclusion is based on the fact that vessel traffic will still be able to transit through the SR27 Bridge under a fixed opening schedule. Vessel operators may adjust their schedules to correspond with the opening schedule at the bridge. Vessel operators may also use the alternate route should they need to transit at other times.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 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 conclusion is based on the fact that vessel traffic will still be able to transit through the SR27 Bridge under a fixed opening schedule. Vessel operators may adjust their schedules to correspond with the opening schedule at the bridge. Vessels operators may also use the alternate route should they need to transit at other times.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

No small entities requested Coast Guard assistance and none was given.

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 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 this 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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.

## 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 final 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. It has been determined that this final rule does not significantly impact the environment.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

■ For the reasons set out 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 the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From March 14, 2005 through November 30, 2005, § 117.T536 is temporarily added to read as follows:

### § 117.T536 Townsend Gut.

The draw of the SR 27 Bridge, mile 0.7, across Townsend Gut shall operate as follows:

(a) From March 14, 2005 through May 26, 2005, and from September 6, 2005 through November 30, 2005, the draw shall open on signal at 6 a.m., 9 a.m., 12 p.m., 3 p.m., and 6 p.m., daily. From 6 p.m. through 6 a.m., and on holidays, the draw shall open on signal.

(b) From May 27, 2005 through September 5, 2005, the draw shall open on signal at 6 a.m., 8 a.m., 10 a.m., 12 p.m., 2 p.m., 4 p.m., and 6 p.m., daily. From 6 p.m. through 6 a.m., and on holidays, the draw shall open on signal.

(c) The bridge may remain in the closed position for four 4-day closures as follows: April 11 through April 14; April 25 through April 28; May 9 through May 12; and May 23 through May 26, 2005.

Dated: March 9, 2005.

**John L. Grenier,**

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

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 05–553]

### Radio Broadcasting Services; Various Locations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section*

*73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and *Amendment of the Commission's Rules to permit FM Channel and Class Modifications by Applications*, 8 FCC Rcd 4735 (1993).

**DATES:** Effective March 16, 2005.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, adopted March 2, 2005, and released March 4, 2005. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20054, telephone 1–800–378–3160 or <http://www.BCPIWEB.com>. The Commission will not send a copy of the *Report & Order* in this proceeding pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—RADIO BROADCASTING SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 237A and adding Channel 237C2 at Coaling.

■ 3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 291A and adding Channel 291C1 at Munds Park.

■ 4. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 246A and adding Channel 246C3 at Calico Rock.

■ 5. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 300A and adding Channel 300C1 at Mount Shasta and by removing Channel 286B1 and adding Channel 286A at Pacific Grove.