

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 create 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. 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

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 (34)(h), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—MARINE EVENTS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1

■ 2. Section 100.1307 is added to read as follows:

§ 100.1307 Special Local Regulations, Strait Thunder Performance, Port Angeles, WA.

(a) *Regulated Areas.* (1) The *race area* encompasses all waters located inside of a line connecting the following points located near Port Angeles, Washington: Point 1: 48°07'24" N, 123°25'32" W; Point 2: 48°07'26" N, 123°24'35" W; Point 3: 48°07'12" N, 123°25'31" W; Point 4: 48°07'15" N, 123°24'34" W. [Datum: NAD 1983].

(2) The *spectator area* encompasses all waters located within a box bounded by the following points located near Port Angeles, Washington: Point 1: 48°07'32" N, 123°25'33" W; Point 2: 48°07'29" N, 123°24'36" W; Point 3: 48°07'24" N, 123°25'32" W; Point 4: 48°07'26" N, 123°24'35" W. [Datum: NAD 1983.]

(b) *Definitions.* For the purpose of this section the following definitions apply:

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commander, Coast Guard Group Port Angeles. The Coast Guard Patrol Commander is empowered to control the movement of vessels in the regulated area.

(2) *Patrol Vessel* means any Coast Guard vessel, Coast Guard Auxiliary vessel, or other federal, state or local law enforcement vessel.

(c) *Special Local Regulations.* (1) Non-participant vessels are prohibited from entering the race area unless authorized by the Coast Guard Patrol Commander.

(2) Spectator craft may remain in the designated spectator area but must follow the directions of the Coast Guard Patrol Commander. Spectator craft entering, exiting or moving within the spectator area must operate at speeds, which will create a minimum wake, and not exceed seven knots. The maximum speed may be reduced at the discretion of the Patrol Commander.

(3) A succession of sharp, short signals by whistle or horn from a Patrol Vessel will serve as a signal to stop. Vessels signaled must stop and comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Coast Guard Patrol Commander may be assisted by other federal, state and local law enforcement agencies in enforcing this regulation.

(d) *Enforcement dates.* This section is enforced annually on the first or second Friday, Saturday, and Sunday in October from 9 a.m. until 5 p.m. The event is a three day event and the specific dates will be published each year in the **Federal Register**. In 2005, this section will be enforced from 9 a.m. until 5 p.m. on Friday, September 30th, to Sunday, October 2nd.

Dated: September 27, 2005.

R.R. Houck,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–05–091]

Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain in the closed position from 11 p.m. on October 21, 2005 through 6 a.m. on October 24, 2005. This temporary deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from October 21, 2005 through October 24, 2005.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION: The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate scheduled bridge repairs, counterweight replacement. The bridge must remain in the closed position in order to perform this work.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from 11 p.m. on October 21, 2005 through 6 a.m. on October 24, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: September 23, 2005.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-05-092]

Drawbridge Operation Regulations: Chelsea River, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the P.J. McArdle Bridge, mile 0.3, across the Chelsea River between East Boston and Chelsea, Massachusetts. Under this temporary deviation the bridge may remain closed from 7 a.m. to 3 p.m., on October 24, 2005 and October 27, 2005. This temporary deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from October 24, 2005 through October 27, 2005.

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

SUPPLEMENTARY INFORMATION: The P.J. McArdle Bridge has a vertical clearance in the closed position of 21 feet at mean high water and 30 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.593.

The owner of the bridge, the City of Boston, requested a temporary deviation from the drawbridge operation regulations to facilitate scheduled bridge maintenance, bearing replacement.

Under this temporary deviation the P.J. McArdle Bridge may remain closed from 7 a.m. to 3 p.m., on October 24, 2005 and October 27, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: September 23, 2005.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-05-061]

RIN 1625-AA09

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations

that govern the Amtrak Portal Bridge at mile 5.0, across the Hackensack River at Little Snake Hill, New Jersey. This final rule allows the bridge owner to expand the two time periods in the morning and in the afternoon, Monday through Friday, when the bridge may remain closed to vessel traffic.

DATES: This rule is effective November 4, 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 (CGD01-05-061) 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. Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668-7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 29, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Hackensack River, New Jersey, in the **Federal Register** (70 FR 43812). We received 30 comment letters in response to the notice of proposed rulemaking. All 30 comment letters were in favor of the proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The Amtrak Portal Bridge has a vertical clearance of 23 feet at mean high water and 28 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.723(c).

The owner of the bridge, National Railroad Passenger Corporation (AMTRAK), requested a change to the drawbridge operation regulations that would expand the two time periods in the morning and afternoon, Monday through Friday, when the bridge may remain closed to vessel traffic.

Rail traffic during the morning and afternoon commuter periods has increased over the past several years. Bridge openings during the two commuter time periods have caused delays to rail traffic prompting the bridge owner to request the expansion of the two bridge closure periods in the morning and afternoon Monday through Friday.

The Coast Guard conducted two 90-day test deviations to help determine if the proposed drawbridge operation schedule changes would help facilitate