

**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

better rail traffic movement and not cause undue delays to vessel traffic.

On February 26, 2004, the Coast Guard published a temporary 90-day deviation, with request for comment, (69 FR 8817) to test changes to the drawbridge operation regulations for the Amtrak Portal Bridge identical to those proposed in this final rule. That temporary deviation was in effect from March 1, 2004, through May 29, 2004. We received nine comment letters in response to the temporary deviation. All the comment letters were in favor of making the tested drawbridge operation schedule a permanent rule change.

On November 23, 2004, we published a second 90-day deviation (69 FR 68079) to test the same drawbridge operation schedule as above during the winter months of the year. The second test deviation was in effect from December 13, 2004 through March 12, 2005. We received eight comment letters in response to our second test deviation. All eight letters were in favor of making the proposed rule change permanent.

The existing drawbridge operation regulations allow the bridge to remain closed to vessel traffic, Monday through Friday, from 7:20 a.m. to 9:20 a.m. and from 4:30 p.m. to 6:50 p.m., daily.

Under this final rule the Amtrak Portal Bridge will not open for vessel traffic, Monday through Friday, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m., daily. Additional bridge openings will be provided for commercial vessels from 6 a.m. to 7:20 a.m., from 9:20 a.m. to 10 a.m., from 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., if at least a one-hour advance notice is given by calling the number posted at the bridge.

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

The Coast Guard received 30 comment letters in response to the notice of proposed rulemaking. All 30 comment letters were in favor of the rulemaking. As a result, no changes have been made to this final rule.

#### **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 the expansion of the existing bridge closed periods were previously tested during two 90-day temporary deviations

with favorable results. We received no objections from the marine operators that normally use this waterway during the two deviation test periods or in response to our notice of proposed rulemaking.

#### **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 the expansion of the existing bridge closed periods were previously tested during two 90-day temporary deviations with favorable results. We received no objections from the marine operators that normally use this waterway during the two deviation test periods or in response to our notice of proposed rulemaking.

#### **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 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 M16475.1D, 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; 33 CFR 1.05-1(g); Department of Homeland Security Delegation No. 0170.1; § 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. Section 117.723 is amended by revising paragraph (c) to read as follows:

#### § 117.723 Hackensack River.

\* \* \* \* \*

(c) Except as provided in paragraphs (a)(1) of this section, the draw of the Amtrak Portal Bridge, mile 5.0, at Little Snake Hill, need not open for the passage of vessel traffic Monday through Friday, except Federal holidays, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m. Additional bridge openings shall be provided for commercial vessels from 6 a.m. to 7:20 a.m.; 9:20 a.m. to 10 a.m.; 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., if at least a one-hour advance notice is given by calling the number posted at the bridge. At all other times the draw shall open on signal.

\* \* \* \* \*

Dated: September 25, 2005.

**David P. Pekoske,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 05-19952 Filed 10-4-05; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD11-05-028]

#### Drawbridge Operation Regulations; Sacramento River, Sacramento, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. This deviation allows the drawbridge to not open for vessel traffic and remain in the closed-to-navigation position. The deviation is necessary to rehabilitate the bridge deck.

**DATES:** This deviation is effective from 10 p.m. on October 16, 2005 through 7 a.m. on October 20, 2005.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (oan), Eleventh Coast Guard District, Building 50-3, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

#### SUPPLEMENTARY INFORMATION:

California Department of Transportation (CalTrans) requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, Sacramento River, Sacramento, CA. The Tower Drawbridge navigation span provides vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. Presently, the draw is required to open on signal as required by 33 CFR 117.189. CalTrans requested the drawbridge be allowed to remain closed to navigation from 10 p.m. on October 16, 2005 to 7 a.m. on October 20, 2005.

During this time, CalTrans will rehabilitate the bridge deck on the drawspan and avoid the risks associated with trying to maintain the delicate mechanical balance necessary for drawspan operation. Navigation on the waterway consists of both commercial and recreational watercraft. The drawspan can be operated for emergency purposes with 4 hours' advance notice. Vessels that can pass through the bridge in the closed-to-navigation position may continue to do so at any time. This deviation to drawbridge regulating operations has been coordinated with the waterway users. No objections to the proposed deviation were received.

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: September 23, 2005.

**Kevin J. Eldridge,**

*Rear Admiral, U. S. Coast Guard, Commander, Eleventh Coast Guard District.*

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD01-05-020]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Dorchester Bay, MA

**AGENCY:** Coast Guard, DHS.