

March 5, 2008, order of the U.S. District Court for the District of Columbia in *Ameridream Inc., et al., v. Jackson*, No. 07-1752 (D.D.C.) and *Penobscot Indian Nation, et al., v. HUD*, No. 07-1282 (D.D.C.), which vacated the final rule entitled “Standards for Mortgagor’s Investment in Mortgaged Property”, published on October 1, 2007 (72 FR 56002), this final rule removes the regulation at 24 CFR 203.19, and reserves § 203.19.

### **Findings and Certifications**

#### *Justification for Final Rulemaking*

In general, HUD publishes a rule for public comment before issuing a final rule, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide, in § 10.1, for exceptions from that general rule where the HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is “impracticable, unnecessary, or contrary to the public interest.” HUD finds that good cause exists and prior public procedure is unnecessary because HUD has no discretion but to comply with the court order to vacate the October 1, 2007, final rule entitled, “Standards for Mortgagor’s Investment in Mortgaged Property.” Public comment in this context would serve no purpose and is, therefore, unnecessary.

#### *Environmental Review*

A Finding of No Significant Impact was not required for the October 1, 2007 final rule. Under 24 CFR 50.19(b)(6), that rule was categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4332 *et seq.*) and that categorical exclusion continues to apply.

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance Number for the principal Federal Housing Administration (FHA) single family mortgage insurance program is 14.117. This rule also applies through cross-referencing to FHA mortgage insurance for condominium units (14.133), and other smaller single family programs.

#### **List of Subjects in 24 CFR Part 203**

Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

■ Accordingly, the Department amends 24 CFR part 203, as follows:

### **PART 203—SINGLE FAMILY MORTGAGE INSURANCE**

■ 1. The authority citation for part 203 continues to read as follows:

**Authority:** 12 U.S.C. 1709, 1710, 1715b, 1715z–16, and 1715u; 42 U.S.C. 3535(d).

#### **§ 203.19 [Removed and Reserved]**

■ 2. Section 203.19 is removed and reserved.

Dated: December 19, 2008.

**Ronald Y. Spraker,**

*Acting General Deputy Assistant Secretary for Housing—Acting Deputy Federal Housing Commissioner.*

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### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 117**

#### **[USCG-2008-0864]**

#### **Drawbridge Operation Regulations; Raritan River, Arthur Kill, and Their Tributaries, New Jersey**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, First Coast Guard District, has issued a new temporary deviation from the regulation governing the operation of the Arthur Kill (AK) Railroad Bridge across Arthur Kill at mile 11.6 between Staten Island, New York and Elizabeth, New Jersey. This deviation is necessary to test a new operating rule for the bridge that will help determine the most equitable and safe solution to facilitate the present and anticipated needs of navigation and rail traffic. This deviation requires the AK Railroad Bridge to remain in the open position but allows the bridge owner/operator to schedule short bridge closure periods after first broadcasting advance notice to the marine community. This change from the previous deviation will consider the needs of navigation and allow marine interests to adjust their schedules around the bridge closure periods.

**DATES:** This deviation is effective from 12:01 a.m. on December 15, 2008 through June 12, 2009. Comments must be received by January 31, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0864 and are available online at <http://www.regulations.gov>. They are

also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the First Coast Guard District, Battery Park Building, One South Street, New York, NY 10004 between 8:30 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Bridge Branch, (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The Arthur Kill Railroad Bridge (AK RR) has a vertical clearance of 31 feet at mean high water and 35 feet at mean low water in the closed position. The owner of the bridge, New York City Economic Development Corporation (NYCEDC), began a bridge rehabilitation program approximately 10 years ago, as part of the region’s Full Freight Access Initiative.

Part of the Full Freight Access Initiative was to restore rail freight service across the bridge to and from the Staten Island Landfill facility (SIL) and the New York Container Terminal (formerly the Howland Hook Terminal). The AK Railroad Bridge rehabilitation project was completed in 2007 in anticipation of renewed rail operations requiring the passage of train traffic across the bridge. Train traffic have been traveling to and from the SIL since June 2007 and the revitalized New York Container Terminal has been receiving railroad freight traffic for the past year.

The operating rule for this bridge found at 33 CFR 117.747 is no longer applicable or necessary as it pertains to the AK RR because the AK RR had been maintained in the open position until last year due to the cessation of all railroad train traffic over the bridge.

#### **Background and Purpose**

Beginning with a temporary deviation entitled “Drawbridge Operation Regulations; Raritan River, Arthur Kill, and Their Tributaries, NJ” published on March 20, 2007 in the **Federal Register** (72 FR 12981), the Coast Guard published a series of three temporary deviations to test a variety of bridge operation schedules culminating in the most recent test deviation published on June 3, 2008 (73 FR 31610). The proposed and final temporary deviation will confirm the lessons learned from the previous tests, namely that shorter bridge closure periods complemented by close coordination between the

bridge operator and marine interests, and advance broadcast notice of intended bridge closures should satisfy the reasonable needs of navigation and allow freight rail operations to develop and grow.

#### **Temporary Deviation To Be Established**

The schedule considered in this notice would provide daily, unscheduled, bridge closures up to thirty minutes in duration.

This temporary deviation requires the AK RR to remain in the open position at all times except during periods when it is closed for the passage of rail traffic. Conrail, the bridge operator, has established a dedicated hot line at 973-690-2454 for coordination of anticipated bridge closures. Tide restrained, deep draft vessels shall call the hot line daily to advise of expected times of vessel transit through the AKRR. The bridge may not close for the passage of trains during any high tide period (2 hours before until ½ hour after predicted high tide at The Battery, New York) if deep draft, tide restrained vessels have advised Conrail of their intent to transit under the bridge. At least 90 minutes and again at 75 minutes prior to a bridge closure the bridge owner or operator shall issue a manual broadcast notice to mariners (minimum range of 15 miles) on channel 13/16, VHF-FM of its intent to close the bridge for up to thirty minutes. Beginning at 60 minutes prior to closure automated broadcasts must be repeated at 15 minute intervals and at 10 and 5 minutes prior to closure. The Coast Guard shall be informed via call to VTS-NY at 718-354-4088. Each day two bridge closures, each fifteen minutes in duration, separated by a thirty minute bridge open period are authorized to allow multiple train movements across the bridge over a short time interval. Vessels shall plan their transits around the announced closure period(s); however a request for up to a 30 minute delay in the bridge closure to allow navigation to meet tide or current requirements shall be granted if requested within 30 minutes after the initial broadcast. Requests received after the initial 30 minutes will not be granted; therefore marine interests should plan their transits carefully. The bridge owner/operator shall repeat the manual bridge closure notice via marine radio at 75 minutes prior to the scheduled closure then via manual or automated broadcast at 15 minute intervals until 15 minutes prior to the intended closure at which time notice of bridge closure will be broadcast every five minutes and once again as the bridge begins to close and appropriate

sound signal given. In the event of bridge operational failure, the bridge owner or operator shall notify the Coast Guard Captain of the Port, New York immediately and shall ensure that a repair crew is on scene at the bridge no later than 45 minutes after the bridge fails to operate and that repair crew shall remain at the bridge until the bridge has been restored to normal operations or raised and locked in the fully open position.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 10, 2008.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

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#### **DEPARTMENT OF HOMELAND SECURITY**

##### **Coast Guard**

##### **33 CFR Part 117**

**[USCG-2008-1187]**

**RIN 1625-AA09**

#### **Drawbridge Operation Regulations; Curtis Creek in Baltimore, MD, Maintenance**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Pennington Avenue Bridge, at mile 0.9, across Curtis Creek in Baltimore, MD. Under this temporary deviation, the drawbridge may remain in the closed position on specific dates and times to facilitate electrical repairs.

**DATES:** This deviation is effective from 6 a.m. on January 21, 2009, to 11:59 p.m. on January 27, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-1187 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Commander (dpb), Fifth Coast Guard

District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6422.

**SUPPLEMENTARY INFORMATION:** The Maryland State Highway Administration, who owns and operates this double-leaf bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 that requires the bridge to open promptly and fully for the passage of vessels when a request to open is given to facilitate electrical repairs.

The Pennington Avenue Bridge, a double-leaf bascule, has a vertical clearance in the closed position to vessels of 38 feet, above mean high water.

To facilitate installation of submarine cables and electrical repairs, the drawbridge will be maintained in the closed-to-navigation position from 6 a.m. on January 21, 2009, until and including 11:59 p.m. on January 27, 2009.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the opening restrictions of the draw span to minimize transiting delays caused by the temporary deviation.

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: December 15, 2008.

**Waverly W. Gregory, Jr.,**

*Chief, Bridge Administration, Branch Fifth Coast Guard District.*

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#### **DEPARTMENT OF AGRICULTURE**

##### **Forest Service**

##### **36 CFR Part 219**

**RIN 0596-AB86**

#### **National Forest System Land Management Planning; Correction**

**AGENCY:** Forest Service, USDA.

**ACTION:** Correcting amendment.

**SUMMARY:** This document makes technical corrections Forest Service regulations concerning the