

**SUMMARY:** The Commander Fifth Coast Guard District has issued a temporary deviation from the regulations governing the operation of the Tacony-Palmyra Bridge (Route 73), across the Delaware River, mile 107.2 between the townships of Tacony, PA and Palmyra, NJ. The deviation is necessary to facilitate the resurfacing of the bridge roadway. This deviation reduces the vertical clearance of the bridge in the closed position by three feet and restricts operation of the draw span.

**DATES:** This deviation is effective from 9 p.m. on November 16, 2009, until 5 a.m. on December 23, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0976 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0976 in the "Keyword" box and then clicking "Search." They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District; telephone 757-398-6587, e-mail [Terrance.A.Knowles@uscg.mil](mailto:Terrance.A.Knowles@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The Burlington County Bridge Commission, who owns and operates this bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 and 117.716(b) to facilitate the resurfacing of the bridge roadway.

The Tacony-Palmyra Bridge (Route 73) at mile 107.2, across the Delaware River, between Tacony, PA and Palmyra, NJ, has a vertical clearance in the closed position to vessels of 53 feet above mean high water (MHW). This clearance will be reduced for safety netting by approximately three feet to 50 feet above MHW.

Under this temporary deviation, the resurfacing repairs will restrict the operation of the draw span on the following dates and times:

Closed-to-navigation each day from 9 p.m. to 5 a.m., from 9 p.m. on November 16, 2009 to 5 a.m. on November 24, 2009; and from 9 p.m. on November 30, 2009 to 5 a.m. on December 23, 2009;

except vessel openings will be provided at least four hours advance notice given to the bridge operator at (856) 829-3002 or via marine radio on Channel 13. The drawbridge will open in the event of an emergency. Vessels that can pass under the bridge without a bridge opening may do so at all times. There are no alternate routes for vessels transiting this section of the Delaware River.

The Coast Guard has coordinated the restrictions with the Delaware River Pilots Association and will inform the other users of the waterways through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact 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: November 6, 2009.

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

*Chief, Bridge Administration Branch, by direction of the Commander, Fifth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2009-0967]

#### Drawbridge Operation Regulation; Three Mile Slough, Rio Vista, 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 California Route 160 Drawbridge across Three Mile Slough, mile 0.1, near Rio Vista, CA. The deviation is necessary to allow Caltrans to conduct drawbridge maintenance. This deviation allows the bridge to remain in the closed-to-navigation position during the maintenance period.

**DATES:** This deviation is effective from 8 a.m. on November 18, 2009 through 4 p.m. on November 20, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-

0967 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0967 in the "Keyword" box and then clicking "Search." This material is also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510-437-3516, e-mail [David.H.Sulouff@uscg.mil](mailto:David.H.Sulouff@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** Caltrans requested a time extension to the temporary change to the operation of the California Route 160 Drawbridge, mile 0.1, Three Mile Slough, near Rio Vista, CA. Reference docket USCG-2009-0896. The drawbridge navigation span provides a vertical clearance of 12 feet above Mean High Water in the closed-to-navigation position. The drawbridge opens on signal as required by 33 CFR 117.5. Navigation on the waterway is commercial and recreational.

The drawbridge will be secured in the closed-to-navigation position from 8 a.m. through 4 p.m. Monday through Friday, from November 18, 2009 through November 20, 2009, to allow Caltrans to replace the industrial staircase leading to the control house. At all other times during this period, and on November 11, 2009, Veterans Day Holiday, the drawbridge will open on signal as required by 33 CFR 117.5. This temporary deviation has been coordinated with commercial and recreational waterway users. There is no anticipated levee maintenance during this deviation period. No objections to the proposed temporary deviation were raised.

Vessels that can transit the drawbridge, while in the closed-to-navigation position, may continue to do so at any time.

In the event of an emergency the drawbridge can be opened with 4 hours advance notice.

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: November 4, 2009.

**J.R. Castillo,**

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

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 9

RIN 2900-AN39

#### Servicemembers' Group Life Insurance—Dependent Coverage

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its Servicemembers' Group Life Insurance (SGLI) regulations in order to implement sec. 402 of the Veterans' Benefits Improvement Act of 2008. Section 402 of the Veterans' Benefits Improvement Act of 2008 extended SGLI dependent coverage to an insured member's stillborn child. This final rule defines the term "member's stillborn child."

**DATES:** *Effective Date:* November 18, 2009.

*Applicability Date:* VA will apply this rule to deaths occurring on or after October 10, 2008, the date of enactment of the Veterans' Benefits Improvement Act of 2008.

**FOR FURTHER INFORMATION CONTACT:** Greg Hosmer, Senior Attorney-Advisor, Department of Veterans Affairs Regional Office and Insurance Center (310/290B), P.O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 842-2000, ext 4280. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** The Veterans' Survivor Benefits Improvements Act of 2001, Public Law 107-14, established a program of family insurance coverage under Servicemembers' Group Life Insurance (SGLI) through which the dependents of SGLI-insured service members could also be insured. Section 4 of Public Law 107-14 amended section 1965 of title 38, United States Code (U.S.C.), which defines various terms for SGLI purposes, to define the term "insurable dependent" as a member's spouse or a member's child (as defined in 38 U.S.C. 101(4)(A)). Section 101(4)(A) defines the term "child" in part as an unmarried person who: (1) Is under the age of 18 years; (2) became permanently incapable of self support before attaining the age of 18; or (3) after

attaining the age of 18 and until completion of education or training (but not after attaining the age of 23) is pursuing a course of instruction at an approved educational institution. Under Public Law 107-14, stillborn children were not eligible for coverage under SGLI as insurable dependents. Effective October 10, 2008, section 402 of the Veterans' Benefits Improvement Act of 2008, Public Law 110-389, amended 38 U.S.C. 1965(10) to include a service member's stillborn child as an insurable dependent under the SGLI program.

We are adding to 38 CFR 9.1 a new paragraph (k) to define the term "member's stillborn child" as a member's natural child whose death occurs before expulsion, extraction, or delivery and: (1) Whose fetal weight is 350 grams or more; or (2) if the fetal weight is unknown, whose duration in utero was 20 or more completed weeks of gestation, calculated from the date the last normal menstrual period began to the date of expulsion, extraction, or delivery. Our definition of the term excludes a fetus or child extracted for purposes of an abortion.

Our definition is consistent with Congressional intent that VA issue regulations that define the term "stillborn child" consistently with the 1992 recommended reporting requirements of the Model State Vital Statistics Act and Regulations (Model Act) as drafted by the Centers for Disease Control and Prevention's National Center for Health Statistics. S. Rep. No. 110-449, at 41 (2008); Joint Explanatory Statement on Amendment to Senate Bill, S. 3023, as Amended, 154 Cong. Rec. S10,445, S10,452 (daily ed. Oct. 2, 2008). Congress did not intend the term "stillborn child" to cover the deaths of fetuses or children at any gestational age or under every circumstance. S. Rep. No. 110-449, at 41. The Model Act recommends a state reporting requirement of fetal deaths involving fetuses weighing 350 grams or more, or if weight is unknown, of 20 completed weeks or more of gestation, calculated from the date the last normal menstrual period began to the date of delivery. Model Act section 15. The Model Act defines "fetal death" to mean "death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy and which is not an induced termination of pregnancy. The death is indicated by the fact that[,] after such expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary

muscles. Heartbeats are to be distinguished from transient cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or gasps." Model Act section (1)(b). We do not include in § 9.1(k) the portion of the Model Act definition that describes what indicates death because a child who is not stillborn but later dies, is already a dependent covered under SGLI. Therefore, nuanced distinctions are unnecessary. Pursuant to Congressional intent, our definition fully complies with the Model Act.

#### Administrative Procedure Act

Because this final rule merely interprets a statutory term, it is an interpretive rule exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553(b).

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This rule would have no such effect on State, local, and tribal governments, or the private sector.

#### Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies as a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or