

**§ 31.3504–1 Designation of Agent by Application.**

(a) *In general.* In the event wages as defined in chapter 21 or 24 of the Internal Revenue Code of 1986, or compensation as defined in chapter 22 of the Code, of an employee or group of employees, employed by one or more employers, is paid by a fiduciary, agent, or other person (“agent”), or if that agent has the control, receipt, custody, or disposal of those wages, or compensation, the Internal Revenue Service may, subject to the terms and conditions as it deems proper, authorize that agent to perform the acts required of the employer or employers under those provisions of the Code and the regulations which have application, for purposes of the taxes imposed by the chapter or chapters, in respect of the wages or compensation. If the agent is authorized by the Internal Revenue Service to perform such acts, all provisions of law (including penalties) and of the regulations applicable to an employer shall be applicable to the agent. However, each employer for whom the agent acts shall remain subject to all provisions of law (including penalties) and of the regulations applicable to an employer. Any application to authorize an agent to perform such acts, signed by the agent and the employer, shall be made on the form prescribed by the Internal Revenue Service and shall be filed with the Internal Revenue Service as prescribed in the instructions to the form and other applicable guidance.

(b) *Special rule for home care service recipients.* (1) *In general.* In the event a fiduciary, agent, or other person (“agent”) is authorized pursuant to paragraph (a) of this section to perform the acts required of an employer under chapters 21 or 24 on behalf of one or more home care service recipients, as defined in paragraph (b)(3) of this section, the Internal Revenue Service may authorize that agent to perform the acts as are required of employers for purposes of the tax imposed by chapter 23 of the Internal Revenue Code of 1986 with respect to wages paid for home care services, as defined in paragraph (b)(2) of this section, rendered to the home care service recipient. Each home care service recipient for whom the agent performs the acts of an employer and each agent authorized under this section to perform the acts of an employer shall remain subject to all provisions of law (including penalties) and of the regulations applicable to an employer with respect to those wages paid.

(2) *Home care services.* For purposes of this section, the term *home care*

*services* includes health care and personal attendant care services rendered in the home care service recipient’s home or local community.

(3) *Home care service recipient.* For purposes of this section, the term *home care service recipient* means any individual who receives home care services, as defined in paragraph (b)(2) of this section, while enrolled, and for the remainder of the calendar year after ceasing to be enrolled, in a program administered by a Federal, state, or local government agency that provides Federal, state, or local government funds, to pay, in whole or in part, for the home care services for that individual.

(c) *Effective and applicability dates.* An authorization under paragraph (a) of this section in effect prior to the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register** continues to be in effect after that date. Paragraph (b) of this section applies to wages paid on or after January 1 of the calendar year following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. However, pursuant to section 7805(b), taxpayers may rely on paragraph (b) of this section for all taxable years for which a valid designation is in effect under paragraph (a) of this section.

**Linda M. Kroening,**

*Acting Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF HOMELAND SECURITY**
**Coast Guard**
**33 CFR Part 117**

[Docket No. USCG–2009–1021]

RIN 1625–AA09

**Drawbridge Operation Regulation; New Haven Harbor, Quinnipiac and Mill Rivers, CT**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulation governing the operation of three bridges across the Quinnipiac and Mill Rivers at New Haven, Connecticut, to relieve the bridge owner from the burden of crewing the bridges during time periods when the bridges seldom receive

requests to open while still providing for the reasonable needs of navigation.

**DATES:** Comments and related material must be received by the Coast Guard on or before February 12, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG–2009–1021 using any one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Judy Leung-Yee, Project Officer, U.S. Coast Guard; telephone 212–668–7165, e-mail [judy.k.leung-ye@uscg.mil](mailto:judy.k.leung-ye@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

**Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–1021), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be

considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2009-1021" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2009-1021" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

The Ferry Street Bridge at mile 0.7, across the Quinnipiac River has a vertical clearance in the closed position of 25 feet at mean high water and 31 feet at mean low water.

The Grand Avenue Bridge at mile 1.3, across the Quinnipiac River has a vertical clearance in the closed position of 9 feet at mean high water and 15 feet at mean low water.

The Chapel Street Bridge at mile 0.4, across the Mill River has a vertical clearance of 7 feet at mean high water and 13 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.213.

The City of New Haven, the owner of the bridges, requested a change to the drawbridge operation regulations for the Ferry Street Bridge across Quinnipiac River at mile 0.7, the Grand Avenue Bridge across the Quinnipiac River at mile 1.3, and the Chapel Street Bridge at mile 0.4, across the Mill River, all at New Haven, Connecticut.

During the past four years the Ferry Street Bridge has undergone a major rehabilitation. During the rehabilitation project the movable spans were removed or left in the open position at various times allowing navigation to pass at all times.

Now that the Ferry Street Bridge is fully operational again, the bridge owner would like to change the drawbridge operation schedule for all its bridges, the Ferry Street Bridge, the Grand Avenue Bridge and the Chapel Street Bridge, to help reduce the burden of crewing these bridges during time periods when there have been few requests to open the bridges.

The waterway users are seasonal recreational craft, commercial fishing, and construction vessels.

The existing drawbridge operation regulation listed at 33 CFR 117.213, authorizes a roving crew concept that requires the draw of the Ferry Street Bridge to open on signal from October 1 through April 30, between 9 p.m. and 5 a.m. unless the draw tender is at the Grand Ave or Chapel Street bridges, in which case, a delay of up to one hour in opening is permitted.

The bridge owner would like to extend the above roving crew concept to be in effect year round.

As a result, the Coast Guard implemented a temporary test deviation (74 FR 27249) on June 9, 2009, to test the proposed changes to the drawbridge operation schedule in order to help us determine whether a permanent change to the schedule would satisfactorily accomplish the bridge owners goal and also continue to meet the reasonable needs of navigation.

The test period was in effect from May 1, 2009 through October 26, 2009. Satisfactory results were received from the test insofar as there were no adverse impacts to navigation. In addition, we received no objection to the operation schedule during or after the test period ended. As a result of the successful test, we are proposing to permanently change the drawbridge regulations for the three bridges.

The operation regulation schedule for the Tomlinson Bridge, which is owned by the Connecticut Department of Transportation, will not be changed by this action and will continue to operate as listed in the existing regulation.

#### Discussion of Proposed Rule

Under this proposed rule the Ferry Street Bridge, the Grand Avenue Bridge, and the Chapel Street Bridge would operate as follows:

The Ferry Street Bridge across Quinnipiac River at mile 0.7, would open on signal for all marine traffic; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., weekdays except Federal holidays, the draw need not be opened for the passage of vessel traffic. From 9 p.m. to 5 a.m., the draw would open on signal if at least a one hour advance notice is given to the draw tender at the Chapel Street Bridge by calling (203) 946-7618.

The Grand Avenue Bridge across Quinnipiac River at mile 1.3, would open on signal for all marine traffic; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., weekdays except Federal holidays, the draw need not be opened for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw would open on signal if at least a one hour advance notice is given to the draw tender at the Chapel Street Bridge by calling (203) 946-7618.

The Chapel Street Bridge across the Mill River at mile 0.4, would open on signal for all marine traffic; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., weekdays except Federal holidays, the draw need not be opened for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw would open on signal if at least a one hour

advance notice is given to the draw tender by calling (203) 946-7618.

Under the existing regulation all the above bridges are allowed to remain closed from noon to 12:15 and from 12:45 to 1 p.m. in addition to the morning and afternoon rush hour time periods. The noon time closure periods, noon to 12:15 and 12:25 to 1 p.m., will be removed from all the above bridges, except the Tomlinson Bridge.

The Coast Guard is also removing obsolete language from the regulation as part of this action. Paragraphs (4)(b) through (4)(f) shall be removed because they are now listed under Subpart A—General Requirements, § 117.31 and § 117.15, and are redundant as a result.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

This proposed 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. This conclusion is based upon the fact that we tested the above drawbridge operation schedule and found that it met the reasonable needs of navigation.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This action will not have a significant economic impact on a substantial number of small entities for the following reasons. A test period was in effect from May 1, 2009 through October 26, 2009. Satisfactory results were received from the test insofar as there were no adverse impacts to navigation. In addition, we received no objection to the operation schedule

during or after the test period ended and found that the operation schedule met the reasonable needs of navigation.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Commander (dpb), First Coast Guard District, Bridge Branch, One South Street, New York, NY 10004. The telephone number is (212) 668–7165. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### Collection of Information

This proposed rule would call 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 proposed 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 a 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 proposed 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 proposed rule would not affect 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule under Department of Homeland Security Management Directive 023-01, and 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.213 to read as follows:

#### § 117.213 New Haven Harbor, Quinnipiac and Mill Rivers.

The draws of the Tomlinson Bridge, mile 0.0, the Ferry Street Bridge, mile 0.7, and the Grand Avenue Bridge, mile 1.3, across the Quinnipiac River, and the Chapel Street Bridge, mile 0.4, across the Mill River, shall operate as follows:

(a) The draw of the Tomlinson Bridge at mile 0.0, across the Quinnipiac River shall open on signal; except that, from 7:30 a.m. to 8:30 a.m., noon to 12:15 p.m., 12:45 p.m. to 1 p.m., and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic.

(b) The draw of the Ferry Street Bridge at mile 0.7, across Quinnipiac River, shall open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal if at least a one-hour advance notice is given by calling the number posted at the bridge.

(c) The draw of the Grand Avenue Bridge at mile 1.3, across the Quinnipiac River shall open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal if at least a one-hour advance notice is given by calling the number posted at the bridge.

(d) The draw of the Chapel Street Bridge at mile 0.4, across the Mill River shall open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

Dated: December 28, 2009.

**Joseph L. Nimmich,**

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

[FR Doc. 2010-435 Filed 1-12-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R2-ES-2009-0091; BFY2009-92210-1117-0000-B2]

#### Endangered and Threatened Wildlife and Plants; Determination That Designation of Critical Habitat is Prudent for the Jaguar

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of determination.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act), have reconsidered our prudence determination concerning the designation of critical habitat for the jaguar (*Panthera onca*) and now find that designation of critical habitat is prudent. We are preparing a proposed designation of critical habitat for the

jaguar in accordance with the Act this fiscal year and anticipate we will publish a proposed designation in January 2011.

**DATES:** To be considered in the proposed critical habitat designation, comments and information should be submitted to us by March 15, 2010.

**ADDRESSES:** You may submit comments by one of the following methods:

- Electronically: Go to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. In the Keyword box, enter Docket No. [FWS-R2-ES-2009-0091], which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on "Send a Comment or Submission."

- By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R2-ES-2009-0091; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Public Comment Procedures and Public Availability of Comments under **SUPPLEMENTARY INFORMATION** for more information).

#### FOR FURTHER INFORMATION CONTACT:

Steve Spangle, Field Supervisor, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021-4951; telephone (602) 242-0210; facsimile (602) 242-2513. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

The jaguar, a large member of the cat family (Felidae), is an endangered species that currently occurs from southern Arizona and New Mexico to southern South America. Jaguars in the United States are part of a population, or populations, that occur in Mexico. Below we present a summary of relevant information we used in making our determination that designating critical habitat in the United States for the jaguar is prudent. For more information regarding all aspects of the jaguar, refer to documents posted on our jaguar webpage (<http://www.fws.gov/southwest/es/arizona/Jaguar.htm>), and Jaguar Conservation Team documents and notes ([www.azgfd.gov/w\\_c/es/](http://www.azgfd.gov/w_c/es/)