

## 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 a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) 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 cause 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 would not create an environmental risk to health or risk to safety that might 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 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 concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

## List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 117.619 is revised to read as follows:

### § 117.619 Taunton River.

(a) The Brightman Street (Route-6) Bridge at mile 1.8, between Fall River and Somerset, shall operate as follows:

(b) The draw shall open on signal between 5 a.m. and 9 p.m., daily. From 9 p.m. through 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.

(c) From June 1 through August 31, the draw need not open for the passage of pleasure craft from 7 a.m. to 9:30 a.m. and from 4 p.m. to 6:30 p.m., Monday through Friday, except holidays. The draw shall open for commercial vessels at all times.

(d) From 6 p.m. on December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal if at least a two-hour advance notice is given by calling the number posted at the bridge.

(e) The owner of the bridge shall provide and keep in good legible condition clearance gauges located on both upstream and downstream sides of the draw with figures not less than twelve inches in height, designed, installed and maintained according to the provisions of § 118.160 of this chapter.

Dated: August 10, 2010.

**Daniel A. Neptun,**

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

[FR Doc. 2010–20922 Filed 8–23–10; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2010–0200]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Passaic River, Clifton, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has changed the drawbridge operation regulations

that govern the operation of the Route 3 Bridge, mile 11.8, across the Passaic River at Clifton, New Jersey. This final rule will allow the bridge to remain in the closed position. The purpose of this rule is to facilitate the installation of a utility cable at the bridge. The Route 3 Bridge has not received a request to open since 1998.

**DATES:** This rule is effective September 23, 2010.

**ADDRESSES:** Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0200 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0200 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 Mr. John W. McDonald, Project Officer, First Coast Guard District Bridge Branch, 617–223–8364, [john.w.mcdonald@uscg.mil](mailto:john.w.mcdonald@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On May 24, 2010, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations Passaic River in the **Federal Register** (75 FR 28766). We received no comments on the proposed rule. No public meeting was requested, and none was held.

##### **Basis and Purpose**

The Route 3 Bridge has a vertical clearance of 35 feet at mean high water, and 40 feet at mean low water in the closed position. The existing drawbridge operating regulations listed at 33 CFR 117.739(n), require the bridge to open on signal after at least a 24-hour advance notice is given by calling the number posted at the bridge.

The existing Route 3 Bridge will soon be replaced with a new fixed highway bridge on a different alignment because it is in poor condition and must be replaced as soon as possible. A submarine utility communication cable is presently located on the proposed alignment of the new replacement

bridge and will need to be temporarily relocated during the construction of the new Route 3 highway bridge.

The best alternative and least disruptive impact to the environment is to temporarily relocate the communication cable to the underside of the existing Route 3 Bridge. As a result of that temporary installation of the communication cable, the existing Route 3 Bridge will not be able to be opened for vessel traffic.

The Route 3 Bridge has not received a request to open since 1998.

On September 10, 2009, the bridge owner, New Jersey Department of Transportation (NJDOT), requested a change to the drawbridge operation regulations to allow the existing Route 3 Bridge to need not open for the passage of vessel traffic in order to facilitate the temporary installation of the communication cable and permit the new bridge construction to commence.

Once the new bridge construction is completed and the new bridge is opened for vehicular traffic, the old existing Route 3 Bridge will be removed.

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

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

##### **Regulatory Analyses**

We developed this 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 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 the Route 3 Bridge has not received a request to open since 1998.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 of 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 upon the fact that the Route 3 Bridge has not received a request to open since 1998.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM 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.

##### **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 a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) 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**

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##### **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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

**Indian Tribal Governments**

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**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 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 concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

**List of Subjects in 33 CFR Part 117**

Bridges.

■ For the reasons discussed 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 117.739 is amended by revising paragraph (n) to read as follows:

**§ 117.739 Passaic River.**

\* \* \* \* \*

(n) The draw of the Route 3 Bridge, mile 11.8, need not be opened for the passage of vessel traffic.

\* \* \* \* \*

Dated: August 12, 2010.

**Daniel A. Neptun,**

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

[FR Doc. 2010–20926 Filed 8–23–10; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG–2010–0778]

**Drawbridge Operation Regulation; Atchafalaya River, Melville, LA**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation

governing the operation of the Union Pacific Railroad vertical lift bridge across the Atchafalaya River, mile 107.4, at Melville, St. Landry and Point Coupee Parishes, Louisiana. The deviation is necessary to perform asbestos abatement work to the draw tender’s house. This deviation allows the bridge to open on signal if at least a three hour advance notice is given from September 9, 2010 through October 9, 2010.

**DATES:** This deviation is effective from 6 a.m. on Thursday, September 9, 2010 through 6 p.m. on Saturday, October 9, 2010.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0778 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0687 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 David Frank, Bridge Administration Branch, Coast Guard; telephone 504–671–2128, e-mail [Kay.B.Wade@uscg.mil](mailto:Kay.B.Wade@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 Union Pacific Railroad has requested a temporary deviation from the operating schedule for the vertical lift span bridge across the Atchafalaya River, mile 107.4, at Melville, St. Landry and Point Coupee Parishes, Louisiana. The bridge has a vertical clearance of 4 feet above mean high water in the closed-to-navigation position and 54 feet above mean high water in the open-to-navigation position.

In accordance with 33 CFR 117.5, the bridge currently opens on signal for the passage of vessels. This deviation allows the vertical lift span of the bridge to open on signal if at least a three hour advanced notice is given from 6 a.m. Thursday, September 9, 2010 through 6 p.m. on Saturday, October 9, 2010.

The closure is necessary in order to conduct asbestos abatement work on the draw tender’s house. This maintenance is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast