

(iii) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(3)(i) or (ii):

FIGURE 13

▲ SMALL BALL. Not for < 3 yrs.:

▲ WARNING:
CHOKING HAZARD--This toy is or contains a small ball. Not for children under 3 yrs.

(iv) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(4)(i) or (ii):

FIGURE 14

▲ MARBLE. Not for < 3 yrs.:

▲ WARNING:
CHOKING HAZARD-- This toy is or contains a marble. Not for children under 3 yrs.

(f) Prominence and conspicuousness of labeling statements. The requirements of 16 CFR 1500.121 relating to the prominence and conspicuousness of precautionary labeling statements for hazardous substances shall apply to any labeling statement required under 16 CFR 1500.20(d) and (e), with the following clarifications and modifications.

(1) Catalogues and other printed materials.

(i) All labeling statements shall be printed in type that is not smaller than 0.08 inches.

(ii) All labeling statements shall be printed in type that is not smaller than the largest of any other statements or text, other than the product or article name, in the individual and adjacent product advertisements.

(2) Internet Web sites.

(i) All labeling statements shall be printed in type that is not smaller than the largest of any other statements or text, other than the product or article name, in the advertisement.

(ii) All labeling statements shall be located immediately before any other statements or text in the advertisement that describes the function, use, or characteristics of the article being advertised (for example, the product description).

(3) Safety Alert Symbol. Any safety alert symbol required by this section

shall be an equilateral triangle. The height of the safety alert symbol shall be equal to or exceed the height of the letters of the signal word "WARNING". The height of the exclamation point inside the triangle shall be at least half the height of the triangle, and the exclamation point shall be centered vertically in the triangle. The safety alert symbol shall be separated from the signal word by a distance no larger than the space occupied by the first letter of the signal word. In all other respects, the safety alert symbol shall conform generally to the provisions of 16 CFR 1500.121 relating to signal words.

Note: The following appendix will not appear in the Code of Federal Regulations:

List of Relevant Documents

1. Memorandum from Robert Franklin, Directorate for Economic Analysis, to Barbara E. Parisi, Attorney, Office of General Counsel, "Economic Issues Associated with Section 105 of the Consumer Product Safety Improvements Act of 2008 (Concerning the inclusion of Cautionary Labeling for Toys and Games in Catalogs and Other Printed Materials)," September 16, 2008.

2. Memorandum from Timothy P. Smith, Engineering Psychologist, Division of Human Factors, Directorate for Engineering Sciences, to Barbara

Parisi, Regulatory Affairs Attorney, Office of the General Counsel, "Size and Placement of Cautionary Statements Specified in Section 105, Labeling Requirement for Advertising Toys and Games, of the Consumer Product Safety Improvement Act of 2008," September 15, 2008.

Dated: September 30, 2008.

Todd A. Stevenson,
Secretary, Consumer Product Safety Commission.

[FR Doc. E8-23543 Filed 10-3-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG-2008-0995]

RIN 1625-AA09

Drawbridge Operation Regulations; Intracoastal Waterway (ICW) Beach Thorofare, Atlantic City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operation regulations of the Route 30 Bridge, at

ICW mile 67.2, across Beach Thorofare at Atlantic City, NJ. This proposal would allow for the drawbridge to open on signal every hour during high transit periods in the summer months and to operate on an advance notice basis at all other times. The proposed changes would result in more efficient use of the bridge.

DATES: Comments and related material must reach the Coast Guard on or before December 5, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0995 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* [http://](http://www.regulations.gov)

www.regulations.gov.

(2) *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.

(3) *Hand Delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District, at (757) 398–6587. 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. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0995), indicate the specific section of this document to which each comment

applies, and give the reason for each comment. 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. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or 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. We may change this proposed rule in view of them.

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> at any time. Enter the docket number for this rulemaking (USCG–2008–0995) in the Search box, and click "Go>>." You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays or at Commander (dgp), 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.

Privacy Act

Anyone can search the electronic form of all 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

Public Meeting

We do not now plan to hold a public meeting. However, you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine

that one would aid this rulemaking, we will hold one at a time and place to be specified in a notice published in the **Federal Register**.

Background and Purpose

The New Jersey Department of Transportation (NJDOT) is responsible for the operation of the Route 30 Bridge, at ICW mile 67.2, across Beach Thorofare at Atlantic City, NJ.

In the closed-to-navigation position, the Route 30 Bridge has a vertical clearance of 20 feet, above mean high water. The existing operating regulation is set out in 33 CFR 117.733(e) which requires the draw to open on signal except that, year-round from 11 p.m. to 7 a.m. and, from November 1 through March 31 from 3 p.m. to 11 p.m., the draw need only open if at least four hours notice is given.

The NJDOT requested changes to the existing regulations for the Route 30 Bridge in an effort to provide more scheduled openings to accommodate the ever-increasing casino workforce and tourists and by limiting the number of openings to minimize vehicular traffic delays and accidents that may result from backups due to more frequent vessel openings, by requiring the hourly openings of draw span during the spring and summer months and to operate on an advance notice basis in the fall and winter months.

A review of the bridge logs for the past three years supplied by NJDOT revealed the morning rush (7 a.m. to 9 a.m.) is averaging a total of 11 openings/year from June through September and the evening rush (4 p.m. to 6 p.m.) is averaging a total of 15 openings/year from June through September. The average daily traffic count from 7 a.m. and 8 p.m. for the same period revealed between 700 and 3800 vehicles. This excess traffic causes increased bottlenecks and safety hazards. Anticipated bridge openings on the hour will help to decrease delays to the local workforce and tourists.

For the past three years, during the fall and winter months, the draw span averaged 23 vessel openings per year from November 1 through March 31 between 7 a.m. and 3 p.m.

Based on the above information, NJDOT has proposed to change the regulations to improve efficiency.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.733(e) by requiring hourly vessel openings of the draw span from 7 a.m. to 11 p.m. from April 1 through October 31. At all other times, the draw will continue to open on signal if four hours notice is given. This change will

result in a more efficient use of the bridge.

Regulatory Analysis

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings to minimize delays.

Additionally, vessels that can safely transit under the bridge while the draw span is in a closed position may do so at any time.

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 proposed rule could affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit through the bridge.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessels that can safely transit under the bridge while the draw span is in a closed position may do so at any time. All other mariners can plan their trips in accordance with the scheduled bridge openings to minimize delays.

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 Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. The Coast Guard will not retaliate against small entities that question or complain about this 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 Commandant Instruction M16475.ID and the Department of Homeland Security Management Directive 5100.1, 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 not likely to 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 § 117.733(e) to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(e) The draw of the Route 30 Bridge across Beach Thorofare, mile 67.2 at Atlantic City, shall open on signal except that from April 1 through October 31 from 7 a.m. to 11 p.m., the draw need only open on the hour; At all other times, the draw need only open if at least four hours notice is given.

* * * * *

Dated: September 25, 2008.

N.O. Buschman,

Captain, Acting Commander, Fifth Coast Guard District.

[FR Doc. E8–23604 Filed 10–3–08; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2008–8]

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The Copyright Office of the Library of Congress is preparing to conduct proceedings in accordance with provisions added by the Digital Millennium Copyright Act which provide that the Librarian of Congress may exempt certain classes of works from the prohibition against circumvention of technological measures that control access to copyrighted works. The purpose of this rulemaking proceeding is to determine whether there are particular classes of works as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses due to the prohibition on circumvention. This notice requests written comments from all interested parties, including representatives of copyright owners, educational institutions, libraries and archives, scholars, researchers and members of the public, in order to elicit evidence on whether noninfringing uses of certain classes of works are, or are likely to be, adversely affected by this prohibition on the circumvention of measures that control access to copyrighted works.

DATES: Written comments must be received no later than December 2, 2008. A notice of proposed rulemaking will be published in December 2008 that will identify proposed classes of works and solicit comments on those proposed classes, which will be due no later than February 2, 2009.

ADDRESSES: Electronic submissions should be made through the Copyright Office website: <http://www.copyright.gov/1201/comment-forms>; see section 3 of the SUPPLEMENTARY INFORMATION section for file formats and other information about electronic and non-electronic filing requirements. If a non-electronic submission is hand delivered by a private party, an original and ten copies of any comment must be delivered to Room LM–401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m. and the envelope

should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000. If hand delivered by a commercial courier, an original and ten copies of any comment must be delivered to the Congressional Courier Acceptance Site located at Second and D Streets, NE., Washington, DC, between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Copyright Office General Counsel, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington DC. If delivered by means of the United States Postal Service (see section 3 of the SUPPLEMENTARY INFORMATION about continuing delays), comments should be addressed to Copyright GC/I&R, PO Box 70400, Washington, DC 20024–0400. See SUPPLEMENTARY INFORMATION section for information about requirements and formats of submissions. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Principal Legal Advisor, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Washington, DC 20024–0400. Telephone: (202) 707–8380; telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

1. Mandate for Rulemaking Proceeding

The Digital Millennium Copyright Act, Pub. L. 105–304 (1998), amended title 17 of the United States Code to add Chapter 12, which among other things prohibits circumvention of access control technologies employed by or on behalf of copyright owners to protect their works.

Specifically, subsection 1201(a)(1)(A) provides, *inter alia*, that “No person shall circumvent a technological measure that effectively controls access to a work protected under this title.”

Subparagraph (B) limits this prohibition. It provides that prohibition against circumvention “shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3–year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title” as determined in this rulemaking.