

*Regulatory Flexibility Act.* Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is hereby certified that the final rule will not have a significant economic impact on a substantial number of small entities. Treasury is required to pay the Federal share of compensation to insurers for insured losses in accordance with the Act. A condition of Federal payment is that the insurer must submit to Treasury, in accordance with procedures established by Treasury, a claim for payment and certain certifications. The Act itself requires all insurers receiving direct earned premium for any type of property and casualty insurance, as defined in the Act, to participate in the Program. This includes all insurers regardless of size or sophistication. The Act also defines property and casualty insurance to mean commercial lines of insurance without any reference to size or scope of the insurer or the insured. Accordingly, any economic impact associated with the proposed rule flows from the Act and not the proposed rule. The rule merely clarifies the point in time at which insurer affiliations are determined for purposes of the Program. A regulatory flexibility analysis is thus not required.

#### List of Subjects in 31 CFR Part 50

Terrorism Risk Insurance.

#### Authority and Issuance

■ For the reasons set forth above, 31 CFR is amended as follows:

#### PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 1. The authority citation for part 50 continues to read as follows:

**Authority:** 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322 (15 U.S.C. 6701 note).

■ 2. Section 50.5 of subpart A is amended by adding paragraph (c)(6) to read as follows:

#### § 50.5 Definitions.

\* \* \* \* \*

(c) \* \* \*

(6) See § 50.55 of this part for determination of an insurer's affiliates for purposes of subpart F.

\* \* \* \* \*

■ 3. Subpart F of part 50 is amended by adding § 50.55 to read as follows:

#### § 50.55 Determination of Affiliations.

For the purposes of subpart F, an insurer's affiliates for any Program Year shall be determined by the circumstances existing on the date of occurrence of the act of terrorism that is the first act of terrorism in a Program

Year to be certified by the Secretary for that Program Year.

Dated: June 8, 2005.

**Gregory Zerzan,**

*Acting Assistant Secretary of the Treasury.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08–05–034]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Tchoutacabouffa River, Cedar Lake, MS

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Commander, Eighth Coast Guard District, has temporarily changed the regulation governing the operation of the Cedar Lake Road Swing Span drawbridge across the Tchoutacabouffa River, mile 8.0, at Cedar Lake, Harrison County, Mississippi. The rule states that the draw of the bridge shall open on signal with twenty-four hours notice; except that the draw will remain closed to navigation Monday through Friday from June 27 through October 28, 2005 with the exception of July 4, 2005. However, from August 1 through September 23, 2005 it will open on signal with twenty-four hours notice every other weekend, beginning with the weekend of August 13, 2005. The closure is necessary for remedial structural repairs to be made to the bridge that are essential for the continued operation of the draw span.

**DATES:** This temporary rule is effective from 7 a.m. on June 27, 2005 to 6 p.m. on October 28, 2005.

**ADDRESSES:** Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, New Orleans, Louisiana 70130–3310, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Phil Johnson, Bridge Administration Branch, (504) 589–2965.

**SUPPLEMENTARY INFORMATION:**

#### Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The City of Biloxi has recently become responsible for maintenance of this bridge and upon initial inspection, discovered that remedial structural repairs must be done expediently to prevent the waterway from being obstructed. As a result, publishing an NPRM would be contrary to the public interest.

#### Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The required repairs must be done expediently because there is a substantial risk that emergency breakdowns will occur, causing the waterway to be obstructed for lengthy periods of time.

#### Background and Purpose

The City of Biloxi has requested a temporary rule changing the operation of the bascule span drawbridge across the Tchoutacabouffa River, mile 8.0 at Cedar Lake, Harrison County, Mississippi. Recently, maintenance responsibility for the bridge was transferred from Harrison County to the City of Biloxi. City bridge engineers conducted an inspection of the bridge and found that the swing span of the bridge had numerous badly deteriorated steel structural members. In order to maintain the operation of the swing span in a safe, efficient manner, expedient remedial repair is needed. The contractor for the City of Biloxi plans to remove and replace existing structural members from June 27 through August 1, 2005. This will require closures of five days at a time. During the period between August 1 and September 23, 2005, the bridge will need to be closed to navigation to facilitate replacing steel members and adding additional steel members then balancing the swing span. During the period between September 23 and October 28, 2005, the contractor will sand blast and paint the entire structure. This rule allows the draw of the bridge to remain closed to navigation continuously, Monday through Friday from June 27 through October 28, 2005. It will open on signal with twenty-four hours notice every weekend during this period, except from August 1, 2005

through September 23, 2005 when it will open on signal with twenty-four hours notice every other weekend beginning with the weekend of August 13, 2005.

The bridge has a vertical clearance of 5 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Bridge tender logs show that the bridge opens to pass navigation approximately four times per month during the summer and fall. The majority of vessels that require an opening of the draw are recreational vessels. Bridge tender logs show that during the period between June 27, 2004 and October 28, 2004, the bridge was opened only four times for commercial fishing vessels and none for tugs with tows. The City of Biloxi has contacted the primary waterway users of the waterway, including commercial users, and advised them of the planned closures. The City of Biloxi has indicated to the Coast Guard that the waterway users will be able to schedule their operations when the bridge will be able to open to pass marine traffic.

Presently, title 33, Code of Federal Regulations (CFR), part 117.685 states: The draw of the Cedar Lake Road Bridge over the Tchoutacabouffa River, mile 8.0, shall open on signal if at least twenty-four hours notice is given.

#### **Regulatory Evaluation**

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

There is not expected to be a significant impact due to the infrequency of vessel transits through the bridge. The City of Biloxi has contacted the users of the waterway who have indicated that they will be able to schedule their transits during the periods when the bridge will open to pass marine traffic.

#### **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 temporary rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit through the Cedar Lake Road Bridge across the Tchoutacabouffa River during the closure. As stated above, there is not expected to be a significant impact due to the infrequency of vessel transits through the bridge. The City of Biloxi has contacted the users of the waterway who have indicated that they will be able to schedule their transits during the periods when the bridge will open to pass marine traffic.

#### **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 rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### **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 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 the preamble.

#### **Taking of Private Property**

This rule will 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 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 does not cause an environmental risk to health or risk to safety that may 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 Commandant Instruction M16475.1D, 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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this temporary rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation because it modifies an existing bridge operation regulation.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

■ For the reasons set out 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From June 27, 2005 to October 28, 2005, § 117.685 is suspended and a new § 117.T684 is added to read as follows:

#### § 117.T684 Tchoutacabouffa River.

The draw of the Cedar Lake Road swing span bridge, Tchoutacabouffa River, mile 8.0, will open on signal with twenty-four hours notice; except that the draw will remain closed to

navigation Monday through Friday with the exception of July 4, 2005. However, from August 1, 2005 through September 23, 2005 it will open on signal with twenty-four hours notice every other weekend beginning with the weekend of August 13, 2005.

Dated: June 3, 2005.

**R.F. Duncan,**

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

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**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09–05–019]

RIN 1625–AA00

#### Safety Zone; Rochester Harbor Boat Parade, Rochester, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of Rochester Harbor and the Genesee River. This safety zone is intended to restrict vessel traffic from a portion of Rochester Harbor and the Genesee River, Rochester, New York during a boat parade. This safety zone is necessary to ensure the safety of spectators.

**DATES:** This rule is effective from 9 p.m. on June 24, 2005 through 10 p.m. on June 24, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of the docket (CGD09–05–019), and are available for inspection or copying at U.S. Coast Guard Marine Safety Office (MSO) Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203 between 7 a.m. and 3 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Craig A. Wyatt, U.S. Coast Guard Marine Safety Office Buffalo, at (716) 843–9570.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This safety zone is temporary in nature and limited time existed for an NPRM. Under 5

U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the boat parade.

#### Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with boat parades. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo has determined that boat parades in close proximity to other watercraft pose significant risks to public safety and property. The combination of large numbers of inexperienced recreational boaters, congested waterways and alcohol use, could easily result in serious injury or fatalities.

#### Discussion of Rule

The Coast Guard is establishing a safety zone consisting of all navigable waters of Rochester Harbor and the Genesee River, Rochester, New York. The Coast Guard will notify the public in advance, by way of Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and for those who request it from Marine Safety Office Buffalo, by facsimile (fax).

#### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 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 this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zones, and all of the zones are in areas where the Coast Guard expects insignificant adverse impact to mariners from the zones’ activation.

#### 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