

detailed inspection in a note in the proposed AD.

### Costs of Compliance

This proposed AD would affect about 54 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of \$80 per work hour. The manufacturer states that it will supply required parts to the operators at no cost. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$4,320, or \$80 per airplane.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section

for a location to examine the regulatory evaluation.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Docket No. FAA-2006-24788; Directorate Identifier 2006-NM-073-AD.

#### Comments Due Date

- (a) The FAA must receive comments on this AD action by June 16, 2006.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, and -100 SU airplanes, certificated in any category; as identified in EMBRAER Service Bulletin 170-24-0028, dated January 4, 2006.

#### Unsafe Condition

- (d) This AD results from a report that the terminal lugs for the power cables of the integrated drive generators (IDGs) may not be adequately crimped, which could allow the cables to be pulled out of the terminals with no significant force. We are issuing this AD to prevent the loss of all normal electrical power for the airplane, and consequent reduced controllability of the airplane.

#### Compliance

- (e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Inspection and Corrective Actions

- (f) Within 600 flight hours after the effective date of this AD: Do a detailed inspection for proper crimping of terminal lugs for the power cables of each IDG, and install a new sleeve on the terminal. If the terminal lugs are not properly installed and crimped: Before further flight, re-crimp and install a new sleeve on the terminal. Do all actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170-24-0028, dated January 4, 2006.

**Note 1:** For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

### Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

### Related Information

(h) Brazilian airworthiness directive 2006-02-04, dated March 15, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on May 9, 2006.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6-7474 Filed 5-16-06; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2001-10881]

RIN 1625-AA36

### Drawbridge Operation Regulations; Amendment

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing a supplemental change to its notice of proposed rulemaking for modifying drawbridge operating regulations. This proposed supplemental change will consolidate all temporary changes to a drawbridge operating schedule into either a deviation or a rulemaking based on the length of time of the temporary change. This new proposed change is intended to provide more easily understood regulatory requirements. This proposed change will not affect the requirements for emergency closures or permanent changes to an operating schedule.

**DATES:** Comments and related material must reach the Docket Management Facility on or before July 17, 2006. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 17, 2006.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2001-10881 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

- (1) Web site: <http://dms.dot.gov>.
- (2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.
- (3) Fax: 202-493-2251.
- (4) Delivery: Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

- (5) Federal eRulemaking Portal: <http://www.regulations.gov>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chris Jaufmann, Office of Bridge Administration, United States Coast Guard Headquarters, 202-267-0368. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Dockets Operations, Department of Transportation, telephone 202-493-0402.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and

address, identify the docket number for this rulemaking, USCG-2001-10881, indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means 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 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. We may change this supplemental proposed rule in view of them.

##### **Public Meeting**

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to the Office of Bridge Administration at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would be helpful, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### **Regulatory History**

On April 17, 2003, we published a notice of proposed rulemaking (NPRM) titled "Amendment to Drawbridge Operation Regulations" in the **Federal Register** (68 FR 18922). We received 11 letters commenting on the proposed rule; however none of those comments were the cause for this supplemental proposed rule. Responses to these comments are addressed below. No public meeting was requested and none was held.

##### **Background and Purpose**

The last major update to the drawbridge regulations in 33 CFR part 117 was in 1984. The Coast Guard published a NPRM on April 17, 2003 (68 FR 18922) which proposed revising part 117 to provide clearer language and more easily understood regulatory requirements. However, after further review the Coast Guard determined that certain proposed changes and clarifications made the regulatory process more cumbersome.

Currently the Coast Guard has two deviations that allow bridge owners to change operating schedules for 60 days for maintenance and repair needs, and 90 days to test a new operating schedule. In our NPRM, we proposed a

third deviation for short term events, and a notice requirement for winter operations in the northern region of the Eighth Coast Guard District and all of the Ninth Coast Guard District.

In order to simplify our bridge program's regulatory process, the Coast Guard is proposing to remove the aforementioned notice and three enumerated deviations, and to consolidate all temporary changes to a drawbridge operating schedule into one of two categories: (1) A deviation, when the temporary change will be for a period of 180 days or less, or; (2) a rulemaking, when the temporary change will be for a period greater than 180 days. This new supplemental proposed rule will amend § 117.35 and remove §§ 117.37, 117.43, and 117.45. This will not affect the bridge owners' responsibility to notify the Coast Guard in a timely manner with their request to change an operating schedule or the discretion of the District Commander to accept the request.

##### **Discussion of Proposed Rule**

In this supplemental proposed rule, the Coast Guard proposes to simplify the regulatory process by creating a single deviation for temporary changes to drawbridge operating schedules lasting 180 days or less. This deviation provision would allow the District Commanders the flexibility to maximize waterway use for navigation prior to and during varying weather conditions, repair/maintenance situations, reasons of public health and safety, and public events. Any temporary change of an operating schedule lasting greater than 180 days or any permanent change to an operating schedule will require a full rulemaking under the Administrative Procedure Act.

This supplemental proposed rule will remove the need for separate provisions for winter drawbridge operations in the Ninth Coast Guard District (§ 117.45), the 60 day deviation for repairs (§ 117.35(d)), and the 90 day test deviation (§ 117.43). This proposed rule also removes the need for the proposed deviation for short term public events (§ 117.37) and the proposed winter operating provision for the northern areas of the Eighth Coast Guard District found in § 117.45 of the NPRM. We also propose to add two new definitions which define the terms drawbridge and drawspan. The Coast Guard will make conforming changes to subpart B removing various terms such as Span, Lift, Draw, or any other unnecessary unique designation used to describe the drawbridge or drawspan and replacing them with the appropriate term.

In the NPRM, the Coast Guard also proposed to add six new definitions to the part; to make a substantive revision to the regulation governing the removable span bridge across Lindsey Slough; and to include in subpart A, a specific requirement that bridge owners must cycle the drawspan(s) of their drawbridges periodically to ensure operation of the drawbridge. We also proposed to rewrite and reorganize sections in subpart A, and to make technical and conforming changes in subpart B. This SNPRM will not affect those proposed changes.

#### Discussion of Comments and Changes

The 11 letters received during the comment period came from state, regional, city, and county transportation offices; a railway association; a railroad company; and two private citizens. For our discussion of these comments, we combined remarks from all comments on each issue, and have addressed the issues, starting with the proposed change that generated the largest number of comments to the proposed change that generated the least.

#### Change in Drawbridge Operating Schedule for Maintenance

*Issue*—All 11 comments objected to our proposal to require submission of requests for change to a drawbridge operation schedule 90 days before the start date of the schedule change. The comments focused on difficulties in scheduling maintenance work that far in advance because changes in weather and tidal conditions, contracting issues, and unpredictable occurrences often cause delays in starting or finishing maintenance work on drawbridges. These delays cause changes to the dates for scheduled maintenance requested by the bridge owners.

*Response*—The proposed change to § 117.35 was intended to clarify the procedures for temporary changes to drawbridge operating schedules. The proposed 90 days reflects the amount of time the Coast Guard may need to review a requested change; obtain any necessary additional information; and to prepare decision letters and publish in the **Federal Register** and other appropriate media, any necessary rulemaking documents related to the change. The full 90-day time period is not needed in every case, nor is it a requirement that precludes processing a request received fewer than 90 days before the needed change. District Commanders have the discretion to process a request even if it is received fewer than 90 days before the needed change. We have revised the language in § 117.35(c)(3) to state that the District

Commander has the discretion to authorize a request submitted less than 90 days before the schedule change.

As to unforeseen delays in starting or completing maintenance work, the requested closure period should include a sufficient number of days to accommodate some unanticipated delays in starting or completing the work. The District Commander's authorization to change the operating schedule would then require that if these additional days are not needed, the drawbridge should operate under its normal schedule until the work begins or is returned to its normal schedule immediately after the work is completed.

#### General Requirements for Drawbridge Owners

*Issue*—In the NPRM, we proposed to change the § 117.7 requirement to operate a drawbridge at "sufficient intervals" to a more specific requirement to "cycle the drawspans a minimum of once every six months." We also proposed to remove the language "Except for drawbridges not required to open for the passage of vessels."

Two comments on this section stated that, if we removed the exception language from § 117.7, the proposed specific requirement for cycling the drawbridge once every six months would cause "undue burden on the bridge owner."

*Response*—The Coast Guard agrees that requiring cycling of the drawspans "every six months" may not be necessary. We have changed the proposed text to eliminate the six month requirement and replace it with language that allows the bridge owner to determine the number of times the drawspans needs to be cycled, so long as the number of cycles "ensures operation of the drawbridge." This allows the bridge owner the flexibility to determine how often cycling the drawspan would be appropriate to maintain their drawbridge in operating condition.

The Coast Guard has also decided not to remove the "exception" term from § 117.7. Some drawbridges authorized to remain closed to navigation prior to this proposed rule cannot meet the cycling requirement without incurring costs to bring the drawbridge back to operational condition. Removal of the word "except" would cause an unnecessary reactivation of drawbridges, which had been authorized to remain closed to navigation before an order from the District Commander to return them to operating condition. Therefore, the Coast Guard will only require

drawbridges authorized to remain closed after the effective date of the final rule to meet the cycling and maintenance requirements in § 117.7 unless a previously exempted bridge has been restored to operation at which point they will be subject to requirements of this part.

#### Authorized Closure of a Drawbridge

*Issue*—Two comments addressed proposed changes to § 117.39. The concerns in these comments are similar to the comments for § 117.7 regarding the cycling of the drawbridge, costs, and necessity of maintaining a drawbridge that has been authorized to remain closed to navigation and unattended. Both comments indicated that the statement "The District Commander may condition approval on the continued maintenance of the operating machinery" should remain in the section.

*Response*—Based on these comments, we have changed the section heading and rewritten the regulatory text to clarify that these requirements apply to drawbridges that are authorized to remain closed after the effective date of the final rule.

The text in § 117.39(c)(2) allows the District Commander to set out in the approval letter any appropriate conditions including the continued maintenance of the operating machinery. The authorization to remain closed is a regulatory permission that allows the drawbridge to be untended and closed to navigation. The authorization is not a change to the bridge permit, it is a change to the operation requirements for the drawbridge and it is effective until revoked or revised. The authorization does not alter the bridge permit, which requires drawbridges to remain operational, *i.e.* capable of operating. Changes made to a drawbridge that would effectively render it inoperable, for example, removal of operating equipment or alteration of transportation surfaces so the draw cannot open, require a change to the permit. This type of change can only be done with an amendment to the permit, not a regulatory change to the operating schedule.

#### Closure of Drawbridge for Emergency Repair

*Issue*—Two comments addressed § 117.36. One comment was concerned that the removal of the phrase "vital, unscheduled repair or maintenance work shall be performed without delay \* \* \*" from § 117.35, and not added to the new § 117.36, would take away the ability of the bridge owner to

immediately close the drawbridge in case of a mechanical or structural failure and would require full rulemaking before closing the drawbridge. The second comment indicated that there was a "fine line" between what constitutes an emergency and an unscheduled repair.

*Response*—The section heading for § 117.36 states that this section pertains to "Closure of drawbridge for emergency repair." Need for a "vital, unscheduled repair" is an emergency that requires immediate attention for safety. If a drawbridge is unexpectedly inoperable, or should be rendered inoperable because of some mechanical or structural problem, then the drawbridge owner should close the drawbridge and notify the District Commander without delay. The District Commander will issue appropriate notification to inform the public of the situation. In this case, there is no need for rulemaking and § 117.36 does not suggest that.

If the drawbridge can operate safely until needed unscheduled repairs or maintenance is done, then any change to the operating schedule to accommodate the repair work must be approved by the District Commander. In these cases, where the repair or maintenance is necessary, but the drawspan can continue to operate safely, the drawbridge owner must request a temporary change in the operating schedule so the District Commander can provide appropriate notice to the public.

#### **Permanent Changes to Drawbridge Operation**

*Issue*—We received one comment on the proposed new § 117.8. The comment suggested that a time limit of 30 days be placed on the District Commander in responding to a request for a permanent change to a drawbridge-operating schedule.

*Response*—The Coast Guard does not agree that a specific time limit should be set for the District Commander's response to a request to change a drawbridge operating schedule. Reviewing submitted information and gathering necessary additional information to determine whether a permanent change is needed, as well as reviewing environmental considerations, and reviewing how the balance between the competing needs of land and marine traffic would be affected, may take longer than 30 days.

#### **Temporary Change in Drawbridge Operating Schedule for Local Public Events**

*Issue*—We received one comment on proposed § 117.37. The comment stated

that, "The requirement in § 117.37 that advance notice be published in the **Federal Register** adds to the lead time for this type of activity without providing benefit to the river users" and that the Local Notice to Mariners "requires less lead time" and "is much more likely to be consulted by mariners, the impacted user group, than the **Federal Register**." The comment also stated that in both § 117.35 and § 117.37 it appears that a Deviation is more stringent than a Temporary Rule.

*Response*—At the time the notice of proposed rulemaking was published, it was the Coast Guard's intent to introduce a third deviation for public events. However, after careful consideration, it was determined that combining all three deviations into one helped to streamline the drawbridge regulatory process. We believe the comment may still apply to this change, and address it accordingly. A deviation, authorized in part 117, is an alternative tool to rulemaking under certain conditions. When the requirements set out in § 117.35 are met, the District Commander may issue a deviation, instead of a rule, to authorize a temporary change in a drawbridge operation schedule. While this deviation is not a rule subject to the Administrative Procedure Act, we are still required to publish that rule in the **Federal Register** pursuant to the Freedom of Information Act (5 U.S.C. 552). Publishing it prior to its effective date, while not technically required, is certainly well within the spirit of FOIA, and as such it is the Coast Guard's policy to do so whenever possible. This does not prevent a District Commander from also publishing Notices of Deviation in local notices to mariners, or by any other means available.

#### **Deviation for Testing Drawbridge Operation Changes**

*Issue*—We received one comment on proposed § 117.43. The comment objects to allowing the public to request testing a change to a drawbridge operating schedule.

*Response*—As local conditions change, such as vehicle and waterway traffic, a drawbridge operating schedule may no longer meet local needs. 33 CFR 1.05–20, states that "any member of the public may petition the Coast Guard to undertake a rulemaking action." Once the request and all pertinent information have been reviewed, the District Commander will determine if the requested change is appropriate. Under the supplemental proposed rule, the specific deviation for testing a rule will be removed and the action of testing a new operating schedule will

fall under the new proposed deviation for any modification to an operating schedule. This change will not affect the ability of the public to request a change to an operating schedule.

#### **Other Changes**

In § 117.35 we are changing the number of days it normally takes a District Commander to respond to a request for a temporary change to an operating schedule from five working days to ten working days. Due to workload issues five working days is often an insufficient amount of time to gather additional necessary information and coordinate with affected waterway users before responding to a request.

The NPRM proposed a number of minor edits to specific sections in subpart B. However, since the publication of the NPRM, some districts have changed or proposed to change these sections and the proposed changes in our NPRM are no longer needed. Therefore these sections have been removed from this final rule.

The Coast Guard has revised the text in § 117.8(a) and (b) to clarify that anyone, not just the bridge owner, may request a change to the operating schedule of a drawbridge.

#### **Regulatory Evaluation**

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. There will be no cost to the general public. This proposal is to provide a more user-friendly part 117 that will remove redundancies and regulations that are no longer functional, make corrections and amendments, and provide clearer language for the user.

The new proposed deviation would not have a significant effect on the economy. These requests for deviations will be reviewed by the District Commander or his/her delegate, taking waterway users and traffic into consideration.

#### **Small Entities**

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], we considered whether this proposed rulemaking 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. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would economically affect it.

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

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104-121], we offer to assist small entities in understanding the proposed rule so that they could better evaluate its effects on them and participate in the rulemaking.

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 a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Under the provisions of 33 U.S.C. 499, the Secretary of Homeland Security is mandated to prescribe rules and regulations for governing the operation of drawbridges. This authorization was delegated to the Commandant of the Coast Guard under Department of Homeland Security Delegation number 0170.1 and the drawbridge operating regulations are set out in 33 CFR part 117. To change any regulation, 5 U.S.C. 553 requires rulemaking to be published in the **Federal Register** and that the notice shall include a statement of time, place, and nature of public rulemaking proceedings. The information collected for the rule can only be obtained from the bridge owners. The information collection requirements are contained in 33 CFR 117.8, 117.35, 117.36, 117.39, 117.40, and 117.42.

*Need for Information:* To change any regulation, 5 U.S.C. 553 requires rulemaking to be published in the

**Federal Register.** The information needed to change a drawbridge operating schedule can only be obtained from the bridge owners. The information collection requirements are contained in 33 CFR part 33 CFR 117.8, 117.35, 117.36, 117.39, 117.40, and 117.42.

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information and OMB has approved the collection. The part number is 117 of title 33 and the corresponding approval number from OMB is OMB Control Number 1625-0109 which expires on 30 September 2008. You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### **Federalism**

We have analyzed this proposed rule under Executive Order 13132 and have determined that this proposed rule would not have implications for Federalism under that Order.

#### **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 would 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 proposed rule is not economically significant and does not concern an environmental risk to health

or risk to safety that may 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 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 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, 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 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 rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction from further environmental documentation. Promulgation of changes to drawbridge regulations has been found to not have significant effects on the human environment. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

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

Bridges.

#### Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. Revise the authority citation for part 117 to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); and Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.1 to read as follows:

##### § 117.1 Purpose.

(a) This part prescribes the general and special drawbridge operating regulations that apply to the drawbridges across the navigable waters of the United States and its territories. The authority to regulate drawbridges across the navigable waters of the United States is vested in the Secretary of Homeland Security.

(b) Subpart A of this part contains the general operation requirements that apply to all drawbridges.

(c) Subpart B of this part contains specific requirements for operation of individual drawbridges. These requirements are in addition to or vary from the general requirements in subpart A. Specific sections in subpart B, which vary from a general requirement in subpart A, supersede the general requirement. All other general requirements in subpart A, that are not at variance, apply to the drawbridges and removable span bridges listed in subpart B.

##### § 117.3 [Removed]

3. Remove § 117.3.

4. Revise § 117.4 to read as follows:

##### § 117.4 Definitions.

The following definitions apply to this part:

*Appurtenance* means an attachment or accessory extending beyond the hull or superstructure that is not an integral part of the vessel and is not needed for a vessel’s piloting, propelling, controlling, or collision avoidance capabilities.

*Automated drawbridge* means a drawbridge that is operated by an automated mechanism, not a drawtender. An automated drawbridge is normally kept in the open to navigation position and closes when the mechanism is activated.

*Deviation* means a District Commander’s action authorizing a drawbridge owner to temporarily not comply with the drawbridge opening requirements in this part.

*District Commander* means the Commander of the Coast Guard District in which the drawbridge is located.

*Drawbridge* means a bridge with an operational span that is intended to be opened for the passage of waterway traffic.

*Drawspan* means the operational span of a drawbridge.

*Lowerable* means the non-structural vessel appurtenance can be mechanically or manually lowered and raised again. The term *lowerable* also applies to a nonstructural vessel appurtenance, which can be modified to make the item flexible, hinged, collapsible, or telescopic so that it can be mechanically or manually lowered and raised again.

*Nonstructural* means that the item is not rigidly fixed to the vessel and could be relocated or altered.

*Not essential to navigation* means that a nonstructural vessel appurtenance, when in the lowered position, would not adversely affect the vessel’s piloting, propulsion, control, or collision-avoidance capabilities.

*Public vessel* means a vessel that is owned and operated by the United States Government and is not engaged in commercial service, as defined in 46 U.S.C. 2101.

*Remotely operated drawbridge* means a drawbridge that is operated by remote control from a location away from the drawbridge.

*Removable span bridge* means a bridge that requires the complete removal of a span by means other than machinery installed on the bridge to open the bridge to navigation.

*Untended* means that there is no tender at the drawbridge.

5. Revise § 117.5 to read as follows:

##### § 117.5 When the drawbridge must open.

Except as otherwise authorized or required by this part, drawbridges must open promptly and fully for the passage

of vessels when a request or signal to open is given in accordance with this subpart.

6. Revise § 117.7 to read as follows:

##### § 117.7 General requirements of drawbridge owners.

Except for drawbridges that have been authorized, before [effective date of final rule], to remain closed to navigation or otherwise specified in subpart B of this part, drawbridge owners must:

(a) Provide the necessary drawtender(s) for the safe and prompt opening of the drawbridge.

(b) Maintain the working machinery of the drawbridge in good operating condition.

(c) Cycle the drawspan(s) periodically to ensure operation of the drawbridge.

(d) Ensure that the drawbridge operates in accordance with the requirements of this part.

(e) Any drawbridge allowed to remain closed to navigation prior to [effective date of final rule], when necessary, must be returned to operable condition within the designated time set forth by the District Commander and will become subject to the requirements of this part.

7. Add § 117.8 to read as follows:

##### § 117.8 Permanent changes to drawbridge operation.

(a) To request a permanent change to a drawbridge operation requirement in this part, anyone may submit a written request, together with documentation supporting or justifying the requested change, to the District Commander.

(b) If after evaluating the request, the District Commander determines that the requested change is not needed, he or she will respond to the request in writing and provide the reasons for denial of the requested change.

(c) If the District Commander decides that a change may be needed, he or she will begin a rulemaking to implement the change.

8. In § 117.31 revise the section heading and paragraph (a) to read as follows:

##### § 117.31 Drawbridge operations for emergency vehicles and emergency vessels.

(a) A drawtender, who receives notification that an emergency vehicle is responding to an emergency situation, must make all reasonable efforts to have the drawspan closed at the time the emergency vehicle arrives.

\* \* \* \* \*

9. Revise § 117.35 to read as follows:

##### § 117.35 Temporary change to a drawbridge operating schedule.

(a) For any temporary change to the operating schedule of a drawbridge,

lasting less than or equal to 180 days, the District Commander may issue a deviation approval letter to the bridge owner and publish a "Notice of deviation from drawbridge regulation" in the **Federal Register**.

(b) If the time period for a temporary change to the operating schedule of a drawbridge will be greater than 180 days, the District Commander will follow appropriate rulemaking procedures and publish a temporary rule in the **Federal Register** prior to the start of the action.

(c) *Request for change.* (1) To temporarily change the drawbridge-operating requirements the bridge owner must submit a written request to the District Commander for approval of the change.

(2) The request must describe the reason for the closure and the dates and times scheduled for the start and end of the change.

(3) Requests should be submitted as early as possible, preferably 90 days before the start of the action. District Commanders have discretion to accept requests submitted less than 90 days before a needed change if those requests can be processed before the date of the needed change.

(d) *Determination.* The District Commander's determination to allow the schedule change is normally forwarded to the bridge owner within ten working days after receipt of the request. If the request is denied, the reasons for the denial will be set out in the District Commander's decision letter.

(e) The drawbridge will return to its regular operating schedule immediately at the end of the designated time period.

(f) If the authorized closure period for an event is broken into separate time periods on the same day or on consecutive days, the drawbridge must provide normal openings for navigation between the authorized closures.

(g) The District Commander will also announce the change to the operating schedule in the Local Notice to Mariners and other appropriate local media.

10. Add § 117.36 to read as follows:

**§ 117.36 Closure of drawbridge for emergency repair.**

(a) When a drawbridge unexpectedly becomes inoperable, or should be immediately rendered inoperable because of mechanical failure or structural defect, the drawbridge owner must notify the District Commander of the closure without delay and give the reason for the emergency closure of the drawbridge and an estimated time when the drawbridge will return to operating condition.

(b) The District Commander will notify mariners about the drawbridge status through Broadcast Notices to Mariners, Local Notice to Mariners and any other appropriate local media.

(c) Repair work under this section must be performed with all due speed in order to return the drawbridge to operation as soon as possible.

11. Revise § 117.39 to read as follows:

**§ 117.39 Authorized closure of drawbridge due to infrequent requests for openings.**

(a) When there have been no requests for drawbridge openings for at least two years, a bridge owner may request that the District Commander authorize the drawbridge to remain closed to navigation and to be untended.

(b) Requests to remain closed to navigation, under this section, must be submitted in writing to the District Commander for approval.

(c) The District Commander may:

(1) Authorize the closure of the drawbridge;

(2) Set out any conditions in addition to the requirement in paragraph (d) of this section; and

(3) Revoke an authorization and order the drawbridge returned to operation when necessary.

(d) All drawbridges authorized to remain closed to navigation, under this section, must be maintained in operable condition.

(e) Authorization under this section does not:

(1) Authorize physical changes to the drawbridge structure, or

(2) Authorize removal of the operating machinery.

(f) Drawbridges authorized under this section to remain closed to navigation and to be untended will be identified in subpart B of this part.

12. Add § 117.40 to read as follows:

**§ 117.40 Advance notice for drawbridge opening.**

(a) Upon written request by the owner of a drawbridge, the District Commander may authorize a drawbridge to operate under an advance notice for opening. The drawbridge tender, after receiving the advance notice must open the drawbridge at the requested time and allow for a reasonable delay in arrival of the vessel giving the advance notice.

(b) If the request is approved, a description of the advanced notice for the drawbridge will be added to subpart B of this part.

13. Revise § 117.41 to read as follows:

**§ 117.41 Maintaining drawbridges in the fully open position.**

(a) Drawbridges permanently maintained in the fully open to

navigation position may discontinue drawtender service as long as the drawbridge remains fully open to navigation. The drawbridge must remain in the fully open position until drawtender service is restored.

(b) If a drawbridge is normally maintained in the fully open to navigation position, but closes to navigation for the passage of pedestrian, vehicular, rail, or other traffic, the drawbridge must be tended unless:

(1) Special operating requirements are established in subpart B of this part for that drawbridge;

(2) Or, the drawbridge is remotely operated or automated.

14. Add § 117.42 to read as follows:

**§ 117.42 Remotely operated and automated drawbridges.**

(a) Upon written request by the owner of a drawbridge, the District Commander may authorize a drawbridge to operate under an automated system or from a remote location.

(b) If the request is approved, a description of the full operation of the remotely operated or automated drawbridge will be added to subpart B of this part.

**Subpart B—Specific Requirements**

15. Revise § 117.51 to read as follows:

**§ 117.51 General.**

The drawbridges in this subpart are listed by the state in which they are located and by the waterway they cross. Waterways are arranged alphabetically by state. The drawbridges listed under a waterway are generally arranged in order from the mouth of the waterway moving upstream. The drawbridges on the Atlantic Intracoastal Waterway are listed from north to south and on the Gulf Intracoastal Waterway from east to west.

**§ 117.53 [Removed]**

16. Remove § 117.53.

17. In § 117.55 revise paragraph (a) to read as follows:

**§ 117.55 Posting of requirements.**

(a) The owner of each drawbridge under this subpart, other than removable span bridges, must ensure that a sign summarizing the requirements in this subpart applicable to the drawbridge is posted both upstream and downstream of the drawbridge. The requirements to be posted need not include those in subpart A or §§ 117.51 through 117.59 of this part.

\* \* \* \* \*

**§ 117.57 [Removed]**

18. Remove § 117.57.

19. Revise § 117.145 to read as follows:

**§ 117.145 Burns Cutoff.**

The drawspan for the Daggett Road Drawbridge, mile 3.0 at Stockton, must open on signal if at least 48 hours notice is given to the Port of Stockton.

20. Revise § 117.155 to read as follows:

**§ 117.155 Eureka Slough.**

The drawspan for the Northwestern Pacific Railroad Authority Drawbridge, mile 0.3 at Eureka, need not be opened for the passage of vessels. The owner or agency controlling the drawbridge must restore the drawspan to full operation within six months of notification from the District Commander.

21. Revise § 117.165 to read as follows:

**§ 117.165 Lindsey Slough.**

The center drawspan of the Hastings Farms Highway Bridge, mile 2.0 between Egbert and Lower Hastings Tracts, must be removed for the passage of vessels if at least 72 hours notice is given to the Hastings Island Land Company office at Rio Vista.

**§ 117.181 [Amended]**

22. In § 117.181 remove the last sentence of the section.

**§ 117.187 [Amended]**

23. In § 117.187 remove the last sentence in paragraph (b).

24. Revise § 117.193 to read as follows:

**§ 117.193 San Leandro Bay.**

The drawspans of the California Department of Transportation Highway and Bicycle drawbridges, mile 0.0 and mile 0.1, between Alameda and Bay Farm Island, must open on signal; except that, from 5 a.m. to 8 a.m. and 5 p.m. to 9 p.m., the drawspans must open on signal if at least 12 hours notice is given. Notice must be given to the drawtender of the Bay Farm Island drawbridges from 8 a.m. to 5 p.m. and to the drawtender of the Park Street Drawbridge at Alameda at all other times. The drawspans need not be opened for the passage of vessels from 9 p.m. to 5 a.m.

**§ 117.195 [Amended]**

25. In § 117.195 remove the last sentence in this section.

26. In § 117.219 revise paragraph (a) to read as follows:

**§ 117.219 Pequonnock River.**

(a) Public vessels of the United States must be passed through as soon as possible.

\* \* \* \* \*

27. In § 117.221 revise paragraph (a) to read as follows:

**§ 117.221 Saugatuck River.**

(a) Public vessels of the United States must be passed through as soon as possible.

\* \* \* \* \*

28. In § 117.224 revise paragraph (a) to read as follows:

**§ 117.224 Thames River.**

\* \* \* \* \*

(a) Immediately on signal for public vessels of the United States and commercial vessels; except, when a train scheduled to cross the drawbridge, without stopping, has passed the Midway, Groton, or New London stations and is in motion toward the drawbridge, the drawspan must not be opened for the passage of any vessel until the train has crossed the drawbridge; and

\* \* \* \* \*

29. Revise § 117.225 to read as follows:

**§ 117.225 Yellow Mill Channel.**

The drawspan of the Stratford Avenue Bridge, mile 0.3 at Bridgeport, must open on signal if at least 24-hours notice is given. Public vessels of the United States must pass through as soon as possible.

30. In § 117.255 add paragraph (c) to read as follows:

**§ 117.255 Potomac River.**

\* \* \* \* \*

(c) This section is also issued under the authority of Public Law 102-587, 106 Stat. 5039.

31. In § 117.261 revise paragraph (a) to read as follows:

**§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.**

(a) General. Public vessels of the United States and tugs with tows must be passed through the drawspan of each drawbridge listed in this section at anytime.

\* \* \* \* \*

32. Revise § 117.269 to read as follows:

**§ 117.269 Biscayne Bay.**

The east drawspan of the Venetian Causeway Drawbridge, between Miami and Miami Beach, must open on signal; except that, from November 1 through April 30 from 7:15 a.m. to 8:45 a.m. and 4:45 p.m. to 6:15 p.m. Monday through

Friday, the draw need not be opened. However, the drawspan must open at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m. if any vessels are waiting to pass. The drawspan must open on-signal on Thanksgiving Day, Christmas Day, New Year's Day, and Washington's Birthday. The drawspan must open at anytime for public vessels of the United States and tugs with tows.

**§ 117.271 [Amended]**

33. In § 117.271 remove paragraph (b) and remove the paragraph designator from paragraph (a).

34. Revise § 117.273 to read as follows:

**§ 117.273 Canaveral Barge Canal.**

(a) The drawspan of the Christa McAuliffe Drawbridge, SR 3, mile 1.0, across the Canaveral Barge Canal need only open daily for vessel traffic on the hour and half-hour from 6 a.m. to 10 p.m.; except that from 6:15 a.m. to 8:15 a.m. and from 3:10 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the drawspan need not open. From 10:01 p.m. to 5:59 a.m., everyday, the drawspan must open on signal if at least 3 hours notice is given to the drawtender. The drawspan must open as soon as possible for the passage of public vessels of the United States and tugs with tows.

(b) The drawspan of the SR401 Drawbridge, mile 5.5 at Port Canaveral, must open on signal; except that, from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5:15 p.m. Monday through Friday except Federal holidays, the drawspan need not be opened for the passage of vessels. From 10 p.m. to 6 a.m., the drawspan must open on signal if at least three hours notice is given. The drawspan must open as soon as possible for the passage of public vessels of the United States and tugs with tows.

**§ 117.277 [Removed]**

35. Remove § 117.277.

36. In § 117.287 revise paragraph (a) to read as follows:

**§ 117.287 Gulf Intracoastal Waterway.**

(a) Public vessels of the United States and tugs with tows must be passed through the drawspan of each drawbridge listed in this section at anytime.

\* \* \* \* \*

37. Revise § 117.289 to read as follows:

**§ 117.289 Hillsboro Inlet.**

The drawspans of the SR A-1-A Drawbridge, mile 0.3 at Hillsboro Beach, must open on signal; except that, from 7 a.m. to 6 p.m., the drawspans need be

opened only on the hour, quarter hour, half hour, and three quarter hour. Public vessels of the United States and tugs with tows must be passed at anytime.

38. In § 117.291 revise paragraph (a) to read as follows:

**§ 117.291 Hillsborough River.**

(a) The drawspans for the drawbridges at Platt Street, mile 0.0, Brorein Street, mile 0.16, Kennedy Boulevard, mile 0.4, Cass Street, mile 0.7, Laurel Street, mile 1.0, West Columbus Drive, mile 2.3, and West Hillsborough Avenue, mile 4.8, must open on signal if at least two hours notice is given; except that, the drawspan must open on signal as soon as possible for public vessels of the United States.

\* \* \* \* \*

39. Revise § 117.311 to read as follows:

**§ 117.311 New Pass.**

The drawspan for the State Road 789 Drawbridge, mile 0.05, at Sarasota, need only open on the hour, twenty minutes past the hour, and forty minutes past the hour from 7 a.m. to 6 p.m. From 6 p.m. to 7 a.m., the drawspan must open on signal if at least 3 hours notice is given to the drawtender. Public vessels of the United States and tugs with tows must be passed at anytime.

40. In § 117.313 revise paragraph (a) to read as follows:

**§ 117.313 New River.**

(a) The drawspan for the S.E. Third Avenue Drawbridge, mile 1.4 at Fort Lauderdale, must open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. Monday through Friday, excluding Saturday, Sunday, and all federal, state, and local holidays, the drawspan need not be opened for the passage of vessels. Public vessels of the United States and tugs with tows must be passed at anytime.

\* \* \* \* \*

41. Revise § 117.315 to read as follows:

**§ 117.315 New River, South Fork.**

(a) The drawspan for the Southwest 12th Street Drawbridge, mile 0.9 at Fort Lauderdale, must open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. Monday through Friday, excluding Saturday, Sunday, and federal, state, and local holidays, the drawspan need not be opened for the passage of vessels. Public vessels of the United States and tugs with tows must be passed through the draw as soon as possible.

(b) The drawspan for the SR84 Drawbridge, mile 4.4 at Fort Lauderdale, must open on signal if at least 24 hours

notice is given. Public vessels of the United States and tugs with tows must be passed through the draw as soon as possible.

42. In § 117.317 revise paragraph (a) to read as follows:

**§ 117.317 Okeechobee Waterway.**

(a) *Exempt vessels.* This term means public vessels of the United States and tugs with tows.

\* \* \* \* \*

43. In § 117.325 revise paragraph (a) to read as follows:

**§ 117.325 St. Johns River.**

(a) The drawspan for the Main Street (US17) drawbridge, mile 24.7, at Jacksonville, must open on signal except that, from 7 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m., Monday through Saturday except Federal holidays, the drawspan need not be opened for the passage of vessels.

\* \* \* \* \*

44. In § 117.353 revise paragraph (a) to read as follows:

**§ 117.353 Atlantic Intracoastal Waterway, Savannah River to St. Marys River.**

(a) *General.* Public vessels of the United States and tugs with tows must, upon proper signal, be passed through the drawspan of each drawbridge in this section at anytime.

\* \* \* \* \*

**§§ 117.486 through 117.488 [Redesignated]**

45. Redesignate §§ 117.486 through 117.488 as follows:

Old section	New section
117.486 .....	117.487
117.487 .....	117.488
117.488 .....	117.486

46. In § 117.531 revise paragraph (a)(1) to read as follows:

**§ 117.531 Piscataqua River.**

(a) \* \* \*  
 (1) Public vessels of the United States, commercial vessels over 100 gross tons, inbound ferry service vessels and inbound commercial fishing vessels must be passed through the drawspan of each drawbridge as soon as possible. The opening signal from these vessels is four or more short blasts of a whistle, horn or a radio request.

\* \* \* \* \*

**§ 117.535 [Removed]**

47. Remove § 117.535.  
 48. In § 117.571 revise paragraph (d) to read as follows:

**§ 117.571 Spa Creek.**

\* \* \* \* \*

(d) The drawspan must always open on signal for public vessels of the United States.

49. In § 117.573 revise paragraph (c) to read as follows:

**§ 117.573 Stoney Creek.**

\* \* \* \* \*

(c) Public vessels of the United States must be passed as soon as possible.

50. In § 117.588 revise paragraphs (a) and (c) to read as follows:

**§ 117.588 Bass River.**

\* \* \* \* \*

(a) Public vessels of the United States must be passed as soon as possible.

\* \* \* \* \*

(c) That the drawspan for the Hall Whitaker Drawbridge must open on signal if at least 24 hours notice is given.

51. In § 117.605 revise paragraph (c) to read as follows:

**§ 117.605 Merrimack River.**

\* \* \* \* \*

(c) The drawspans for the Massachusetts Department of Public Works drawbridges, mile 5.8 at Newburyport and mile 12.6 at Rock Village, and Groveland Drawbridge, mile 16.5 at Groveland, must open on signal if at least two hours notice is given. Public vessels of the United States must be passed through the drawspans as soon as possible.

52. In § 117.620 revise paragraphs (a) and (c) to read as follows:

**§ 117.620 Westport River—East Branch.**

(a) Public vessels of the United States must be passed as soon as possible.

\* \* \* \* \*

(c) That the drawspan for the Westport Point Drawbridge, mile 1.2 at Westport, must open on signal if at least 24 hours notice is given.

53. Revise § 117.683 to read as follows:

**§ 117.683 Pearl River.**

See § 117.486, Pearl River, listed under Louisiana.

54. In § 117.703 revise paragraph (a) to read as follows:

**§ 117.703 Bass River.**

\* \* \* \* \*

(a) The drawspan must open on signal if at least six hours notice is given, except that public vessels of the United States must be passed as soon as possible.

\* \* \* \* \*

55. In § 117.713 revise paragraph (a) to read as follows:

**§ 117.713 Cooper River.**

(a) The drawspans for the State Street Drawbridge, mile 0.3 and the Conrail

Drawbridge at North River Avenue, mile 0.9, must open on signal if at least four hours notice is given.

\* \* \* \* \*

**§ 117.731 [Redesignated as § 117.730]**

56. Redesignate § 117.731 as § 117.730.

**§ 117.731a [Redesignate as § 117.731 and Amend]**

57. Redesignate § 117.731a as § 117.731 and in newly redesignated § 117.731, revise paragraph (c) to read as follows:

**§ 117.731 Mullica River.**

\* \* \* \* \*

(c) The drawspan must open as soon as possible for public vessels of the United States during the periods when four hours notice is required.

**§ 117.733 [Amended]**

58. In § 117.733 remove paragraph (a) and redesignate paragraphs (b) through (j) as paragraphs (a) through (i) respectively.

59. Revise § 117.736 to read as follows:

**§ 117.736 Oceanport Creek.**

The drawspan for the New Jersey Transit Rail Operations Drawbridge, mile 8.4 near Oceanport, must open on signal from May 15 through September 15 between 5 a.m. and 9 p.m.; except that, the drawspan need not open 6 a.m. to 7:45 a.m. and 5:30 p.m. to 7:30 p.m. on weekdays, excluding all federal holidays except for Martin Luther King Day. The drawspan must open on signal upon four hours notice from May 15 through September 15 between 9 p.m. and 5 a.m., and from September 16 through May 14; except that, the drawspan need not be opened from 6 a.m. to 7:45 a.m. and 5:30 p.m. to 7:30 p.m. on weekdays, excluding all Federal holidays except for Martin Luther King Day. Public vessels of the United States must be passed as soon as possible at anytime.

60. In § 117.738 revise paragraph (a)(2) to read as follows:

**§ 117.738 Overpeck Creek.**

(a) \* \* \*

(2) Public vessels of the United States must be passed through the drawspan of each drawbridge as soon as possible.

\* \* \* \* \*

**§ 117.739 [Amended]**

61. In § 117.739 remove paragraphs (o) and (p)(2); redesignate paragraph (p)(3) as (p)(2) and redesignate paragraphs (p) through (u) as paragraphs (o) through (t) respectively.

62. In § 117.745 revise paragraphs (a)(1) and (b), introductory text, to read as follows:

**§ 117.745 Rancocas River (Creek).**

(a) \* \* \*

(1) Public vessels of the United States must be passed through the drawspan of each drawbridge as soon as possible without delay at anytime. The opening signal from these vessels is four or more short blasts of a whistle or horn, or a radio request.

\* \* \* \* \*

(b) The drawspan for the SR#543 Drawbridge, mile 1.3 at Riverside and the SR#38 Drawbridge, mile 7.8 at Centerton, must operate as follows:

\* \* \* \* \*

**§ 117.775 [Removed]**

63. Remove § 117.775.

**§ 117.783 [Removed]**

64. Remove § 117.783.

65. In § 117.789, revise paragraph (a) to read as follows:

**§ 117.789 Harlem River.**

(a) The drawspan of each drawbridge across the Harlem River, except the Spuyten Duyvil Railroad Drawbridge, need not be opened from 5 p.m. to 10 a.m. However, at all times, public vessels of the United States must be passed through the drawspan of each drawbridge, listed in this section, as soon as possible.

\* \* \* \* \*

66. In § 117.791 remove paragraph (a)(3); redesignate paragraphs (a)(4) and (a)(5) as (a)(3) and (a)(4), respectively, and revise paragraph (f)(4) to read as follows:

**§ 117.791 Hudson River.**

\* \* \* \* \*

(f) \* \* \*

(4) During the period that the Federal Lock at Troy is inoperative, the drawspans need not be opened for the passage of vessels.

**§ 117.795 [Amended]**

67. In § 117.795, remove paragraph (c).

68. In § 117.797 revise paragraph (a) to read as follows:

**§ 117.797 Lake Champlain.**

(a) The drawspan for each drawbridge listed in this section must open as soon as possible for public vessels of the United States.

\* \* \* \* \*

69. In § 117.799 revise paragraph (a) to read as follows:

**§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.**

(a) At all times, public vessels of the United States, state must be passed through the drawspan of each drawbridge listed in this section as soon as possible.

\* \* \* \* \*

**§ 117.821 [Amended]**

70. In § 117.821 remove paragraph (a)(1) and redesignate (a)(2) through (a)(6) as (a)(1) through (a)(5) respectively.

71. In § 117.824 revise paragraph (a)(3) to read as follows:

**§ 117.824 Neuse River.**

(a) \* \* \*

(3) Must always open on signal for public vessels of the United States.

\* \* \* \* \*

72. In § 117.843 revise paragraph (a)(3) to read as follows:

**§ 117.843 Trent River.**

(a) \* \* \*

(3) Must always open on signal for public vessels of the United States.

\* \* \* \* \*

**§ 117.867 [Removed]**

73. Remove § 117.867.

**§ 117.881 [Amended]**

74. In § 117.881 remove paragraph (b) and paragraph designator (a) from the remaining text.

**§ 117.885 [Removed]**

75. Remove § 117.885.

**§ 117.891 [Removed]**

76. Remove § 117.891.

77. Revise § 117.892 to read as follows:

**§ 117.892 South Slough.**

The drawspan for the Oregon State Highway Drawbridge across South Slough at Charleston must open on signal for the passage of vessels, except that between the hours of 7 a.m. and 7 p.m., from June 1 through September 30, the drawspan need be opened only on the hour and half-hour. This exception must not apply to commercial tugs and/or tows or public vessels of the United States.

78. In § 117.911 revise paragraph (a) to read as follows:

**§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.**

(a) *General.* Public vessels of the United States and tugs with tows, upon proper signal, will be passed through the drawspan of each drawbridge listed in this section at anytime.

\* \* \* \* \*

**§ 117.949 [Amended]**

79. In § 117.949 remove the last sentence of the section.

80. Revise § 117.968 to read as follows:

**§ 117.968 Gulf Intracoastal Waterway.**

The drawspan for the Port Isabel Drawbridge, mile 666.0, must open on signal; except that, from 5 a.m. to 8 p.m. on weekdays only, excluding Federal, state, and local holidays, the drawspan need open only on the hour for pleasure craft. The drawspan must open on signal at anytime for commercial vessels. When the drawspan is open for a commercial vessel, waiting pleasure craft must be passed.

81. Revise § 117.977 to read as follows:

**§ 117.977 Pelican Island Causeway, Galveston Channel.**

The drawspan for the Pelican Island Causeway Drawbridge across Galveston Channel, mile 4.5 of the Galveston Channel, (GIWW mile 356.1) at Galveston, Texas, must open on signal; except that, from 6:40 a.m. to 8:10 a.m., 12 noon to 1 p.m., and 4:15 p.m. to 5:15 p.m. Monday through Friday except Federal holidays, the drawspan need not be opened for passage of vessels. Public vessels of the United States must be passed at anytime.

82. In § 117.993 revise paragraph (a) to read as follows:

**§ 117.993 Lake Champlain.**

(a) The drawspan for each of the drawbridges listed in this section must open as soon as possible for the passage of public vessels of the United States.

\* \* \* \* \*

83. In § 117.1023 revise paragraph (b) to read as follows:

**§ 117.1023 Pamunkey River.**

\* \* \* \* \*

(b) Public vessels of the United States must pass at anytime.

**§ 117.1039 [Removed]**

84. Remove § 117.1039.

**Appendix A to Part 117 [Removed]**

85. Remove Appendix A To part 117.

Dated: May 5, 2006.

**T.H. Gilmour,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention.*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[EPA-HQ-OAR-2003-0178; FRL-8171-2]

RIN 2060-AM72

**National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On December 11, 2003, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for miscellaneous coating manufacturing. The promulgated rule applies to the manufacture of coatings, such as paints, inks, and adhesives. The proposed amendments clarify that coating manufacturing means the production of coatings using operations such as mixing and blending; not reaction or separation processes used in chemical manufacturing.

The proposed amendments also clarify the compliance date for certain equipment that is part of a chemical manufacturing process unit that is also used to produce a coating.

**DATES:** *Comments.* Comments must be received on or before July 3, 2006.

*Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by May 30, 2006, a public hearing will be held on June 1, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0178, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- E-mail: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).

- Fax: (202) 566-1741.

- Mail: Air and Radiation Docket, EPA, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a duplicate copy, if possible. We request that a separate copy of each public comment also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

- Hand Delivery: Air and Radiation Docket, EPA, Room B-102, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2003-0178. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B-102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

*Public Hearing.* If a public hearing is held, it will be held at 10 a.m. at EPA's Environmental Research Center Auditorium, Research Triangle Park, NC, or at an alternate site nearby.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy McDonald, Coatings and Chemicals Group (E143-01), Sector