

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.ID and Department of Homeland Security Management Directive 5100.1, which guide 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” is not required for this rule.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 9 a.m. to 4 p.m. on September 24, 2006, add a temporary § 100.35T–05–057 to read as follows:

##### § 100.35T–05–057 Bogue Sound, Morehead City, North Carolina.

(a) *Regulated area.* The regulated area is established for the waters of Bogue Sound, adjacent to Morehead City, NC, from the southern tip of Sugar Loaf Island approximate position latitude 34°42′55″ N longitude 076°42′48″ W, thence westerly to Morehead City Channel Daybeacon 7 (LLNR 38620), thence southwest along the channel line to Bogue Sound Light 4 (LLRN 38770), thence southerly to Causeway Channel Daybeacon 2 (LLNR 38720), thence southeasterly to Money Island Daybeacon 1 (LLNR 38645), thence

easterly to Eight and One Half Marina Daybeacon 2 (LLNR 38685), thence easterly to the western most shoreline of Brant Island approximate position latitude 34°42′36″ N longitude 076°42′11″ W, thence northeasterly along the shoreline to Tombstone Point approximate position latitude 34°42′14″ N longitude 076°41′20″ W, thence southeasterly to the east end of the pier at Coast Guard Sector North Carolina approximate position latitude 34°42′00″ N longitude 076°40′52″ W, thence easterly to Morehead City Channel Buoy 20 (LLNR 29427), thence northerly to Beaufort Harbor Channel LT 1BH (LLNR 34810), thence northwesterly to the southern tip of Radio Island approximate position latitude 34°42′22″ N longitude 076°40′52″ W, thence northerly along the shoreline to approximate position latitude 34°43′00″ N longitude 076°41′25″ W, thence westerly to the North Carolina State Port Facility, thence westerly along the State Port to the southwest corner approximate position latitude 34°42′55″ N longitude 076°42′12″ W, thence westerly to the southern tip of Sugar Loaf Island the point of origin. All coordinates reference Datum NAD 1983.

(b) *Definitions.* The following definitions apply to this section; (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any person or vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the “Crystal Coast Super Boat Grand Prix” under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(c) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must: (i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 4 p.m. on September 24, 2006.

Dated: August 4, 2006.

**Larry L. Hereth,**

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

[FR Doc. E6–13511 Filed 8–15–06; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 117

[CGD01–06–019]

**RIN 1625–AA09**

##### Drawbridge Operation Regulations; Townsend Gut, Boothbay and Southport, ME

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulations that govern the operation of the Southport (SR27) Bridge, across Townsend Gut, at mile 0.7, between Boothbay Harbor and Southport, Maine. This final rule changes the regulation to require the Southport (SR27) Bridge to operate on a fixed opening schedule between April 29 and September 30, each year. This final rule is expected to help relieve vehicular traffic delays during the summertime tourism season while continuing to meet both the current and anticipated needs of navigation.

**DATES:** This rule is effective September 15, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01–06–019 and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

##### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On April 20, 2006, we published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulations”; Townsend Gut, Booth Bay and Southport, ME, in the **Federal**

**Register** (71 FR 20376). We received twelve comment letters in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

### Background and Purpose

The Southport (SR27) Bridge, across Townsend Gut, at mile 0.7, has a vertical clearance of 10 feet at mean high water, and 19 feet at mean low water in the closed position. The existing drawbridge operation regulations, listed at 33 CFR 117.5, require the bridge to open on signal at all times.

The owner of the bridge, Maine Department of Transportation (MDOT), requested a change to the drawbridge operation regulations governing the operation of the Southport (SR27) Bridge to require it to open on signal, on the hour, between 6 a.m. and 6 p.m., from April 29 through September 30, each year. The rule change was proposed to help reduce vehicular traffic delays during the summer tourism season when vehicular traffic is greatly increased.

Frequent bridge openings during the summer months result in vehicular traffic delays during the daytime hours in Boothbay Harbor and Southport. The Southport (SR27) Bridge opened 4,136 times in 2004. Specifically, 3,493 (84%) of the 2004 bridge openings were between May and September.

The Town of Southport Board of Selectmen conducted a public meeting in the fall of 2005, to survey public opinion regarding the proposed regulation change originally reflected in the notice of proposed rulemaking published on April 20, 2006.

The local residents, mariners, and commercial vessel operators who attended the meeting were in favor of permanently changing the regulation governing the operation of the Southport (SR27) Bridge to require the bridge to open on signal, once an hour, on the hour, between 6 a.m. and 6 p.m., from April 29 through September 30, each year. All other provisions of the existing regulation would remain unchanged.

### Discussion of Comments and Changes

The Coast Guard received twelve comment letters in response to the notice of proposed rulemaking published on April 20, 2006.

Six were in favor of the proposed rule change requiring the bridge to open once an hour, on the hour, and six were opposed to the hourly openings.

The six comment letters in opposition to the hourly bridge openings varied in reasons, ranging from a concern for

boating safety, greater delays of vessel traffic, longer bridge openings to accommodate the volume of vessel traffic waiting to transit the bridge, and a concern for the safety of motorists that will be more likely to rush across the bridge before the hourly bridge opening.

Three comment letters suggested that the bridge open two times an hour, on the hour and half hour, as a compromise remedy.

The Coast Guard has considered the inconvenience to local lobstermen, local commercial passenger vessels, and recreational boaters. Specifically, the Coast Guard considered the added cost to lobster boat operators bypassing the bridge and navigating around the island and the delays to recreational boaters. We believe these complaints are legitimate as are the concerns of motorists being delayed for frequent unscheduled bridge openings.

After reviewing the comments received, and re-visiting the various competing interests, the Coast Guard believes that having two bridge openings an hour, on the hour and half hour, from 6 a.m. to 6 p.m. would accommodate the maritime community including local lobstermen, local commercial passenger vessels, recreational boaters, and motorists who seek to cross the bridge.

As a result, we have modified this final rule to allow the Southport (SR27) Bridge to open twice an hour, on the hour and half hour, between 6 a.m. and 6 p.m., from April 29 through September 30. For the remainder of the year, the bridge will open on signal.

### 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.

This conclusion is based on the fact that vessel traffic, which is not able to pass under the Southport (SR27) Bridge in the closed position, will still be provided bridge openings twice every hour, on the hour and half hour. Moreover, mariners can safely utilize the alternate route to open water through Sheepscot Bay.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a

substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: local lobstermen, local commercial passenger vessels, and recreational boaters. This rule will not have a significant economic impact on these entities for the reasons described under the Regulatory Evaluation section.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. No small entities requested Coast Guard assistance and none was given.

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

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, and Department of Homeland Security Management Directive 5100.1, which guide 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 rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

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

Bridges.

#### Regulations

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

- 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

- 2. Add § 117.537 to read as follows:

#### § 117.537 Townsend Gut.

The draw of the Southport (SR27) Bridge, at mile 0.7, across Townsend

Gut between Boothbay Harbor and Southport, Maine shall open on signal; except that, from April 29 through September 30, between 6 a.m. and 6 p.m., the draw shall open on signal on the hour and half hour only, after an opening request is given.

Dated: July 31, 2006.

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

[FR Doc. E6–13384 Filed 8–15–06; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 06–031]

RIN 1625–AA00

#### Safety Zone; Old Mormon Slough Sediment Contamination—McCormick and Baxter Superfund Site; Stockton, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of Stockton Deep Water Channel, in the vicinity of the Old Mormon Slough. This safety zone is necessary to protect persons and vessels, which might otherwise transit near the work site, from the hazards associated with the work. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or his designated representative.

**DATES:** This rule is effective from July 24, 2006 through October 31, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP 06–031 and are available for inspection or copying at the Waterways Safety Branch of Sector San Francisco, Yerba Buena Island, Bldg. 278, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Erin Bastick, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 or Sector San Francisco 24 hour Command Center at (415) 399–3547.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this