

minutes past the hour. From 11 p.m. to 7 a.m. the draw shall open on signal if at least 10 minutes advance notice is given.

Dated: May 6, 2005.

**W.E. Justice,**

*Captain, U.S. Coast Guard, Acting  
Commander, Seventh Coast Guard District.*  
[FR Doc. 05-9638 Filed 5-13-05; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08-05-028]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Cumberland River, Nashville, TN

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Louisville and Nashville Railroad Drawbridge, mile 190.4, Nashville, Tennessee across the Cumberland River. This deviation allows the bridge to remain in the closed- to- navigation position for three consecutive days from 7 a.m. June 11, 2005 until 7 a.m. June 14, 2005. The deviation is necessary to allow time for making repairs of critical mechanical components essential to the continued safe operation of the drawbridge.

**DATES:** This temporary deviation is effective from 7 a.m., June 11, 2005 until 7 a.m., June 14, 2005.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Room 2.107F in the Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103-2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Roger K. Wiebusch, Bridge Administrator, (314) 539-3900, extension 2378.

**SUPPLEMENTARY INFORMATION:** CSX Transportation Inc. requested a temporary deviation to allow time to conduct critical repairs to the Louisville and Nashville Railroad Drawbridge, mile 190.4 at Nashville, Tennessee

across the Cumberland River. The Louisville and Nashville Railroad Drawbridge currently operates in accordance with 33 CFR 117.5 which requires the drawbridge to open promptly and fully for passage of vessels when a request to open is given in accordance with 33 CFR Part 117, Subpart A. In order to facilitate required bridge maintenance the bridge must be kept in the closed-to-navigation position. When the river is at normal pool elevation commercial traffic can transit the bridge without opening the drawspan; therefore, performing the needed repair when the river is at normal pool will have minimal impact on navigation. This deviation allows the bridge to remain closed-to-navigation for 3 days from 7 a.m., June 11, 2005 until 7 a.m., June 14, 2005. There are no alternate routes for vessels transiting this section of the Cumberland River.

The Louisville and Nashville Railroad Drawbridge, in the closed position, provides a vertical clearance of 47.0 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 9, 2005.

**Roger K. Wiebusch,**

*Bridge Administrator.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-05-039]

#### Drawbridge Operation Regulations; Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this

temporary deviation the bridge may remain in the closed position from May 16 through May 20, May 23 through May 27, and May 30 through June 17, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

**DATES:** This deviation is effective from May 16, 2005 through June 17, 2005.

**FOR FURTHER INFORMATION CONTACT:** Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.

**SUPPLEMENTARY INFORMATION:** The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate rehabilitation repairs at the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from May 16, through May 20, May 23 through May 27, and May 30 through June 17, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: May 9, 2005.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 05-9701 Filed 5-13-05; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-05-022]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Chelsea River, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary final rule governing the operation of the P.J. McArdle Bridge, mile 0.3, across the Chelsea River between East Boston and Chelsea, Massachusetts. This final rule

will allow the bridge to remain in the closed position from 9 a.m. to 5 p.m. on June 18, 2005, to facilitate the Annual Chelsea River Revel 5K Road Race. Vessels that can pass under the bridge without a bridge opening may do so at all times.

**DATES:** This rule is effective from 9 a.m. to 5 p.m. on June 18, 2005.

**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 [CGD01-05-022] and are available for inspection or copying the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking.

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

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 30, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Chelsea River, Massachusetts, in the **Federal Register** (70 FR 16201). We received no comment letters in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

**Background and Purpose**

The P.J. McArdle Bridge has a vertical clearance of 21 feet at mean high water and 30 feet at mean low water in the closed position. The existing drawbridge operation regulations listed at 33 CFR 117.593 require the bridge to open on signal at all times.

The Chelsea Creek Action group requested a temporary change to the drawbridge operation regulations to allow the bridge to remain in the closed position from 9 a.m. to 5 p.m. on June 18, 2005, to facilitate the running of the Annual Chelsea River Revel 5K Road Race. Vessels that can pass under the bridge without a bridge opening may do so at all times.

The Chelsea River is predominantly transited by commercial tugs, barges, oil tankers, and recreational vessels. The Coast Guard coordinated this closure with the mariners that normally use this waterway and no objections were received.

The Coast Guard did not receive the request to keep the bridge closed to facilitate the scheduled road race until

March 7, 2005. A shortened comment period was necessary, due the short notice given to the Coast Guard, to allow this final rule to become effective in time for the start of Annual Chelsea River Revel 5K Road Race on June 18, 2005.

The Coast Guard believes this final rule is needed in order to provide for public safety and the safety of the race participants.

**Discussion of Comments and Changes**

The Coast Guard received no comments in response to our notice of proposed rulemaking. No changes have been made to this final rule.

**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).

This conclusion is based on the fact that the bridge will be closed for only 8 hours in the interest of public safety during the running of the 5K road race.

**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 less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the bridge closure is only 8 hours in duration.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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.

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 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 effect 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

## Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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.

## 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.

## 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 designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Environment

We have analyzed this final 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 rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental

documentation. It has been determined that this final rule does not significantly impact the environment.

## 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. On June 18, 2005, from 9 a.m. to 5 p.m., § 117.593 is suspended and a new § 117.T592 is added to read as follows:

#### § 117.T592 Chelsea River.

(a) All drawbridges across the Chelsea River shall open on signal; except that, the P.J. McArdle Bridge, mile 0.3, need not open for the passage of vessel traffic from 9 a.m. to 5 p.m. on June 18, 2005.

(b) The opening signal for each drawbridge is two prolonged blasts followed by two short blasts and one prolonged blast. The acknowledging signal is three prolonged blasts when the draw can be opened immediately and two prolonged blasts when the draw cannot be opened or is open and must be closed.

Dated: May 5, 2005.

**J.L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 05–9702 Filed 5–13–05; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900–AL79**

### Veterans Education: Non-Payment of VA Educational Assistance to Fugitive Felons

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document amends Department of Veterans Affairs (VA) regulations to reflect a provision in the Veterans Education and Benefits Expansion Act of 2001 (Act). The Act contains a provision in section 505 that prohibits VA from awarding educational

assistance allowance to individuals during any period that they are fugitive felons. Section 505 further prohibits payment of educational assistance allowance to a dependent of a veteran if the veteran is a fugitive felon. The prohibitions apply to the following VA educational assistance programs: Montgomery GI Bill-Active Duty, Post-Vietnam Era Veteran's Educational Assistance Program, and Survivors' and Dependents' Educational Assistance.

**DATES:** *Effective Date:* This final rule is effective May 16, 2005.

*Applicability Date.* The substantive changes made by this final rule are applied retroactively to December 27, 2001, to conform to statutory requirements.

#### FOR FURTHER INFORMATION CONTACT:

Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7187.

**SUPPLEMENTARY INFORMATION:** Section 505 of the Veterans Education and Benefits Expansion Act of 2001, enacted December 27, 2001, prohibits the payment of educational assistance allowance to veterans who are fugitive felons. The Act further prohibits payment of educational assistance allowance to an otherwise eligible dependent of a veteran if the veteran or the dependent is a fugitive felon. The prohibitions apply to the following educational assistance programs.

- Montgomery GI Bill—Active Duty (MGIB), 38 U.S.C. chapter 30;
- Post-Vietnam Era Veteran's Educational Assistance Program (VEAP), 38 U.S.C. chapter 32; and
- Survivors' and Dependents' Educational Assistance (DEA), 38 U.S.C. chapter 35.

The amendments to the regulations include definitions for "fugitive felon" and "felony" as defined in the Act. VA expanded the definition of "fugitive felon" to show that individuals are identified as such by Federal, State, or local law enforcement officials. It is the law enforcement officials, and not VA, who identify an individual as a "fugitive felon."

The amendments include rules showing that educational assistance allowance will be discontinued effective the later of December 27, 2001, or the date of the warrant for the arrest of the felon. In the case of a dependent, when the veteran from whom the dependent derives eligibility is the fugitive felon, the date of discontinuance is the later of December 27, 2001, or the date of the warrant for the arrest of the felon. Payment of educational assistance allowance to an otherwise eligible