

**DEPARTMENT OF LABOR****Mine Safety and Health Administration****30 CFR Part 57**

RIN 1219-AB29

**Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners**

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Final rule; corrections.

**SUMMARY:** This document contains corrections to the preamble and rule text of the final rule that was published in the **Federal Register** on Monday, June 6, 2005 (70 FR 32868). The rule relates to diesel particulate matter exposure of underground metal and nonmetal miners.

**DATES:** Effective July 6, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Rebecca J. Smith, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209-3939; 202-693-9440 (telephone); or 202-693-9441 (facsimile).

The document is available on the Internet at <http://www.msha.gov/REGSINFO.HTM>.

**SUPPLEMENTARY INFORMATION:**

As published, the preamble and rule text contain errors which may be misleading and need to be corrected.

Accordingly, the preamble is corrected as follows:

1. On page 32889, in the first column, on the last line of the first paragraph, the **Federal Register** cite should be changed from (66 FR 5765-55767) to (66 FR 5765-5767).

2. On page 32929, in the third column, in the second full paragraph, on the eighteenth line, the word "insure" should be changed to "ensure" so that the sentence reads, "NIOSH's written response to MSHA \* \* \* prior to selection and installation of DPM filter systems to ensure a successful match between filter and application."

3. On page 32935, in the first column, in the first full paragraph, on the seventh line, the measurement "5 dpm" should be replaced by "5 ppm" so that the sentence reads, "Per company policy, whenever an NO<sub>2</sub> monitor (carried by equipment operators) exceeded 5 ppm at the operator's location, that operator was removed to the surface.

■ In addition, the rule text is corrected as follows:

**§ 57.5066 [Corrected]**

■ 1. On page 32967, in the second column, on the first line, place quotation marks before and after the word "evidence" in § 57.5066, paragraph (b)(1), so that the sentence reads, "The term "evidence" means \* \* \*."

■ 2. On page 32967, in the second column, in the second paragraph, in the second sentence, place quotation marks before and after the word "promptly" in § 57.5066, paragraph (b)(2), so that the sentence reads, "The term "promptly" means \* \* \*."

Dated: June 23, 2005.

**David G. Dye,**

*Deputy Assistant Secretary for Mine Safety and Health.*

[FR Doc. 05-12817 Filed 6-29-05; 8:45 am]

**BILLING CODE 4510-43-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[CGD08-05-001]

RIN 1625-AA09

**Drawbridge Operation Regulation; Bayou La Batre, Bayou La Batre, AL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulation governing the operation of the State Highway 188 vertical lift span bridge, across Bayou La Batre, mile 2.3, at Bayou La Batre, Alabama. This rule will allow the draw of the bridge to open on the hour during the predominant daylight hours, remain closed except for emergencies at night and remain closed to navigation at specific vehicular peak rush hour periods. This rule will allow for better coordination and facilitate movement of both vehicular and marine traffic at the bridge site due to an increase in commuter traffic Monday thru Friday.

**DATES:** This rule is effective August 1, 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 [CGD08-05-001] and are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130-3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Bridge

Administration Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cindy Herrmann, Bridge Administration Branch, at (504) 589-2965.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On March 1, 2005, we published a notice of proposed rulemaking (NPRM) entitled, "Drawbridge Operation Regulation; Bayou La Batre, Bayou La Batre, AL," in the **Federal Register** (70 FR 3919). No comments were received regarding the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

The U.S. Coast Guard, at t)097he request of the Alabama Department of Transportation and supported by the Mayor of the City of Bayou La Batre and the Mobile County Public School System, is changing the times of the existing drawbridge operation regulation. Currently, the bridge opens on signal except that the draw need not be opened from 8 p.m. to 4 a.m. daily, and from 6:30 to 8:30 a.m. and from 2 p.m. to 5 p.m. Monday through Saturday except holidays.

In an effort to assess and accurately determine the needs of the community, traffic counts and bridge tender logs were supplied by Alabama Department of Transportation. A review of the logs of drawbridge openings and traffic counts reveal that adjusting the marine traffic closures to coordinate with vehicular rush hour traffic should not significantly impact the flow of marine traffic. Allowing the bridge to remain closed to marine traffic during times that coincide with the heaviest vehicular traffic counts would help relieve the morning and afternoon rush hour commuter traffic congestion across the bridge while having minimal impact on vessel traffic.

Navigation at the site of the bridge consists primarily of recreational pleasure craft, fishing vessels, crew boats and tugboats with barges. Alternate routes are not available to marine traffic.

**Discussion of Comments and Changes**

No comments were received in response to the NPRM Public Notice 04-05 dated March 2, 2005.

**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 rule allows vessels ample opportunity to transit this waterway with proper notification before and after the peak vehicular traffic periods. According to the vehicle traffic surveys, the public at large is better served by the additional closure times during the noontime lunch periods.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of

compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

#### Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not cause an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

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

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect

on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

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

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

#### Environment

We have analyzed this rule under Commandant Instruction M16475.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 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. This final rule involves modifying the existing drawbridge operation regulation for a benefit of all modes of transportation. It will not have any impact on the environment.

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

Bridges.

#### Regulations

■ For the reasons set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations 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. § 117.103 is revised to read as follows:

**§ 117.103 Bayou La Batre.**

The draw of SR 188 Bridge, mile 2.3, at Bayou La Batre, will open on signal every hour on the hour daily between 4 a.m. and 8 p.m., Monday through Sunday. The bridge need not open for the passage of vessels on the hours of 7 a.m., 3 p.m., and 4 p.m., Monday through Friday. Monday through Friday the draw will open on signal for the passage of vessels at 3:30 p.m. The bridge will remain closed to marine traffic from 8 p.m. to 4 a.m. daily except for emergencies.

Dated: June 22, 2005.

**Robert F. Duncan,**

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

[FR Doc. 05-12925 Filed 6-29-05; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD01-05-058]

**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 July 8, 2005 through July 22, 2005 and from July 25, 2005 through August 31, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

**DATES:** This deviation is effective from July 8, 2005 through August 31, 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 July 8, 2005 through July 22, 2005 and from July 25, 2005 through August 31, 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: June 23, 2005.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 05-12931 Filed 6-29-05; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD05-05-033]

RIN 1625-AA87

**Security Zone; Georgetown Channel, Potomac River, Washington, DC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone on the waters of the upper Potomac River. This action is necessary to provide for the security of a large number of visitors to the annual July 4th celebration on the National Mall in Washington, DC. The security zone will allow for control of a designated area of the river and safeguard spectators and high-ranking officials.

**DATES:** This rule is effective from 12:01 a.m. to 11:59 p.m. local time on July 4, 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 CGD05-05-033 and are available for inspection or copying at Coast Guard Sector Baltimore, Waterways Management Division, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management

Division, at telephone number (410) 576-2674 or (410) 576-2693.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On May 6, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; Georgetown Channel, Potomac River, Washington, DC" in the **Federal Register** (70 FR 23948). We received seven pieces of written correspondence commenting on the proposed rule. Based on these comments we reduced the size of the security zone. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Immediate action is needed to protect the public from waterborne acts of sabotage or terrorism. Any delay in the effective date of this rule is contrary to the public interest.

**Background and Purpose**

Due to increased awareness that future terrorist attacks are possible, the Coast Guard, as lead Federal agency for maritime homeland security, has determined that the Captain of the Port Baltimore must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. This security zone is part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities against sabotage or terrorist attacks.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against a large number of spectators and high-ranking officials during the annual July 4th celebration would have on the public interest, the Coast Guard is establishing a security zone that extends 75 yards from the eastern shore upon the waters of the Georgetown Channel of the Potomac River, from the surface to the bottom, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge Complex) to the Theodore Roosevelt Memorial Bridge and all waters in between, totally including the waters of the Georgetown Channel Tidal Basin.

This security zone will help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against a large number of spectators and high-ranking officials during the annual