

respect to which Spouse consents to the waiver of the surviving spousal rights provided under the plan and section 205 of ERISA. Participant and Spouse divorce after the annuity starting date and present the plan with a domestic relations order that eliminates the straight life annuity based on Participant's life and provides for Spouse, as alternate payee, to receive all future benefits in the form of a straight life annuity based on the life of Spouse. The plan does not allow reannuitization with a new annuity starting date, as defined in section 205(h)(2) of ERISA (and as further explained in 26 CFR 1.401(a)-20, Q&A-10(b)). Pursuant to paragraph (c)(1) of this section, the order does not fail to be a QDRO solely because it is issued after the annuity starting date, but the order would fail to be a QDRO under section 206(d)(3)(D)(i) and paragraph (d)(1) of this section because the order requires the plan to provide a type or form of benefit, or any option, not otherwise provided under the plan. However, the order would not fail to be a QDRO under section 206(d)(3)(D)(i) and paragraph (d)(1) of this section if instead it were to require all of Participant's future payments under the plan to be paid instead to Spouse, as an alternate payee (so that payments that would otherwise be paid to the Participant during the Participant's lifetime are instead to be made to the Spouse during the Participant's lifetime).

Signed at Washington, DC, this 3rd day of June 2010.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 2010-13868 Filed 6-9-10; 8:45 am]

**BILLING CODE 4510-29-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2010-0412]

RIN 1625-AA08

#### **Navy River Swim Special Local Regulation; Lower Mississippi River, Walls, MS**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a special local regulation for all waters of the Lower Mississippi River from mile marker 710 to 711 extending the entire width of the river. This special local regulation is needed to protect persons and vessels from the potential safety hazards associated with an event involving a swim across the Lower Mississippi River.

**DATES:** This rule is effective from 5 a.m. to 9 a.m., local time, on June 18, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0412 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0412 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Lieutenant Junior Grade Jason Erickson, Coast Guard; telephone 901-521-4753, e-mail [Jason.A.Erickson@uscg.mil](mailto:Jason.A.Erickson@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to protect the participants in the Mississippi River swim, spectators, and other mariners from the safety hazards associated with swimming across the Lower Mississippi River. Further, the Coast Guard had late notice with respect to the permit: the Coast Guard did not receive the application for a marine event permit until May 2010.

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**. This is because immediate action is needed to protect the participants in the Mississippi River swim, spectators, and other mariners from the safety hazards associated with swimming across the Lower Mississippi River.

##### **Basis and Purpose**

On May 6, 2010, the Coast Guard received an Application for Approval of

Marine Event for a swim across the Lower Mississippi River. A special local regulation is needed to protect participants, spectators, and other mariners from the possible hazards associated with a swim across the Lower Mississippi River.

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

The Coast Guard is establishing a special local regulation for all waters of the Lower Mississippi River from mile marker 710 to 711 extending the entire width of the river. Entry into the designated areas will be prohibited to all vessels, mariners, and persons unless specifically authorized by the COTP Lower Mississippi River or a designated representative.

The COTP Lower Mississippi River or a designated representative will inform the public through broadcast notices to mariners of changes in the effective period for the special local regulation. This rule is effective from 5 a.m. to 9 a.m., local time, on June 18, 2010.

##### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### **Regulatory Planning and Review**

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.

This rule will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notices to mariners. The impacts on routine navigation are expected to be minimal.

##### **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.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Lower Mississippi River between mile marker 710 and mile marker 711, effective from 5 a.m. to 9 a.m., local time, on June 18, 2010.

This special local regulation will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect for four hours on the day the event is occurring. In addition, the common vessel traffic in this area is limited almost entirely to recreational vessels and commercial towing vessels.

#### Assistance for Small Entities

Under 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 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 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 (adjusted for inflation) 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 cause 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 create 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves participants swimming across the Lower Mississippi River, and is not expected to result in any significant adverse environmental impact as described in NEPA.

Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are 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 discussed 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.

■ 2. A new temporary § 100.35T08–0412 is added to read as follows:

**§ 100.35T08–0412 Navy River Swim Special Local Regulation; Lower Mississippi River Mile Marker 710 to 711, Walls, MS.**

(a) *Location.* The following area is a safety zone: all waters of the Lower Mississippi River, beginning at mile marker 710 and ending at mile marker 711, extending the entire width of the river.

(b) *Effective dates.* This section is effective from 5 a.m. through 9 a.m., local time, on June 18, 2010.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.35 of this part, entry into the designated area is prohibited unless authorized by the Captain of the Port Lower Mississippi River or a designated representative.

(2) Persons or vessels requiring entry into or passage through the designated area must request permission from the Captain of the Port Lower Mississippi River or a designated representative. They may be contacted on VHF–FM channels 16 or by telephone at (901) 521–4822.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Lower Mississippi River and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational Broadcasts:* The Captain of the Port, Lower Mississippi River will inform the public when safety zones have been established via Broadcast Notice to Mariners.

Dated: May 13, 2010.

**Michael Gardiner,**

*Captain, U.S. Coast Guard, Captain of the Port, Lower Mississippi River.*

[FR Doc. 2010–13908 Filed 6–9–10; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG–2010–0467]

**Drawbridge Operation Regulation; Between Tacony, PA and Palmyra, NJ**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Tacony-Palmyra Bridge (Route 73), across the Delaware River, mile 107.2, between the townships of Tacony, PA and Palmyra,

NJ. The deviation is necessary to facilitate the resurfacing of the bridge roadway. This deviation reduces the vertical clearance of the bridge in the closed position by three feet and restricts operation of the draw span.

**DATES:** This temporary deviation is effective with actual notice beginning 8 p.m. on May 26, 2010, and with constructive notice beginning 8 p.m. June 10, 2010 until 5 a.m. July 31, 2010.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0467 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0467 in the “Keyword” box and then clicking “Search”. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Mr. Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District, at telephone 757–398–6587, e-mail [Terrance.A.Knowles@uscg.mil](mailto:Terrance.A.Knowles@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:** The Burlington County Bridge Commission, who owns and operates this bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 and 117.716(b) to facilitate the resurfacing of the bridge roadway.

The Tacony-Palmyra Bridge (Route 73) at mile 107.2, across the Delaware River, between PA and NJ, has a vertical clearance in the closed position to vessels of 53 feet above mean high water (MHW). This clearance will be reduced for safety netting by approximately three feet to 50 feet above MHW.

Under this temporary deviation, the resurfacing repairs will restrict the operation of the draw span on the following dates and times: Closed-to-navigation, each day from 8 p.m. to 5 a.m., from May 26, 2010 to July 31, 2010; except vessel openings will be provided with at least four hours advance notice given to the bridge operator at (856) 829–3002 or via marine radio on Channel 13. Vessels that can pass under the bridge without a bridge opening may do so at all times. There are no alternate routes for vessels

transiting this section of the Delaware River.

Due to the limited number and types of vessels that require bridge openings, the Coast Guard has coordinated this project with the Delaware River Pilots, and will inform the other users of the waterway through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation. Four hours advance notice may be required for an emergency opening.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 26, 2010.

**Waverly W. Gregory, Jr.,**

*Bridge Administrator, Fifth Coast Guard District.*

[FR Doc. 2010–13909 Filed 6–9–10; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG–2010–0471]

**Drawbridge Operation Regulation; Delaware River, Between Bristol, PA and Burlington, NJ**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Burlington-Bristol Bridge (Route 413), across the Delaware River, mile 117.8 between the Townships of Bristol, PA, and Burlington, NJ. The deviation is necessary to facilitate the replacement of the counterweight cables. This deviation restricts operation of the draw span but will not restrict vessels from navigating beneath the closed span.

**DATES:** This deviation is effective 7 p.m. July 6, 2010, until 7 a.m. July 11, 2010.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0471 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0471 in the “Keyword” box and then clicking “Search.” They are also available for inspection or copying