

accounts for, or on behalf of, VEF Banka, and to apply due diligence reasonably designed to guard against indirect use of their correspondent or payable-through accounts by VEF Banka.

#### *B. VEF Banka's Subsequent Developments*

On May 26, 2010, VEF Banka's Latvian banking regulator, the Financial and Capital Market Commission (the "FCMC"), revoked VEF Banka's operating license on the grounds that the shareholders of the bank had not received authorization from the FCMC for the acquisition of qualifying holdings and the bank failed to ensure compliance with provisions of the Credit Institution Law.<sup>6</sup> As a result, the shareholders had no decision-making rights and were unable to "ensure prudent bank operations." The FCMC's decision to revoke VEF Banka's license was confirmed by the Senate of Latvia's Supreme Court on July 22, 2010 and terminated VEF Banka's ability to operate as a financial institution under Latvian law.<sup>7</sup> On November 15, 2010, the Riga District Court issued a non-appealable order to begin liquidating the bank.<sup>8</sup> The liquidation process is expected to be complete in one to two years and will result in the disposition of all of VEF Banka's assets, including its subsidiary, Veiksmes lizings.

#### **III. Withdrawal of the Finding of Primary Money Laundering Concern Against VEF Banka and Repeal of the Final Rule**

For the reasons set forth above, FinCEN hereby withdraws the finding of primary money laundering concern against VEF Banka, as published in the **Federal Register** on April 26, 2005 (70 FR 21369) and finalized on July 13, 2006 (71 FR 39554), as of August 1, 2011. As a result, FinCEN is also repealing the final rule, as published in the **Federal Register** on July 13, 2006 (71 FR 39554) as 31 CFR 103.192 (now 31 CFR 1010.654), that was based upon the finding. FinCEN's withdrawal of the finding of primary money laundering concern against VEF Banka and the repeal of the related final rule do not acknowledge any remedial measure

<sup>6</sup> "On Withdrawal of the JSC 'VEF Banka's' Operating Licence," Financial Capital Market Commission press release, May 26, 2010 ([http://www.fktk.lv/en/publications/press\\_releases/2010-05-29\\_on\\_withdrawal\\_of\\_the\\_jsc/](http://www.fktk.lv/en/publications/press_releases/2010-05-29_on_withdrawal_of_the_jsc/))

<sup>7</sup> "VEF Bank Loses License," The Baltic Times, July 28, 2010 (<http://www.baltictimes.com/news/articles/26661/>).

<sup>8</sup> "Court Rule for Liquidation of VEF Banka," The Baltic Course, November 16, 2010 (<http://www.baltic-course.com/eng/finances/?doc=33962&underline=vef+banka>).

taken by VEF Banka, but are the result of the revocation of VEF Banka's Latvian banking license and the non-appealable decision by the Riga District Court to liquidate the bank.<sup>9</sup>

#### **IV. Regulatory Matters**

##### *A. Executive Order 12866*

It has been determined that this rulemaking is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

##### *B. Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), Public Law 104-4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under Section 202 and has concluded that on balance the rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

##### *C. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), FinCEN certifies that this final regulation likely will not have a significant economic impact on a substantial number of small entities. The regulatory changes in this final rule merely remove the current obligations for financial institutions under 31 CFR 103.192 (now 31 CFR 1010.654).

##### *D. Paperwork Reduction Act*

This regulation discontinues the Office of Management and Budget Control Number 1506-0041 assigned to the final rule and, as a result, reduces

the estimated average burden of one hour per affected financial institution, totaling 5,000 hours. This regulation contains no new information collection requirements subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d) *et seq.*).

#### **List of Subjects in 31 CFR Part 1010**

Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

#### **Authority and Issuance**

For the reasons set forth above, 31 CFR part 1010 is amended as follows:

#### **PART 1010—GENERAL PROVISIONS**

■ 1. The authority citation for 31 CFR part 1010 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307.

#### **§ 1010.654 [Removed]**

■ 2. Part 1010 is amended by removing § 1010.654.

Dated: July 22, 2011.

**James H. Freis, Jr.,**

*Director, Financial Crimes Enforcement Network.*

[FR Doc. 2011-19118 Filed 7-29-11; 8:45 am]

**BILLING CODE 4810-02-P**

#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 117**

[Docket No. USCG-2010-1117]

RIN 1625-AA09

#### **Drawbridge Operation Regulation; Raritan River, Arthur Kill and Their Tributaries, Staten Island, NY and Elizabeth, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has changed the drawbridge operation regulations that govern the operation of the Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill between Staten Island, New York and Elizabeth, New Jersey. This final rule provides relief to the bridge owner from crewing their bridge by allowing the bridge to be

operated from a remote location while continuing to meet the present and future needs of navigation.

**DATES:** This rule is effective August 31, 2011.

**ADDRESSES:** Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–1117 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–1117 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. Joe Arca, Project Officer, First Coast Guard District Bridge Branch, 212–668–7165, [joe.m.arca@uscg.mil](mailto:joe.m.arca@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**

On March 25, 2011, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations Raritan River, Arthur Kill and their tributaries, in the **Federal Register** (76 FR 16715). We received one comment in response to the proposed rule. No public meeting was requested, and none was held.

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

The Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill, has a vertical clearance of 31 feet at mean high water, and 35 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.702.

Beginning in 2009, Consolidated Rail Corporation (Conrail) conducted a year of successful remote operation tests of the AK Railroad Bridge without any objections from marine users. A draw operator was on scene at all times to ensure compliance with drawbridge operating regulations cited above. In September 2010, Conrail formally requested that the drawbridge operating regulation be revised to permit remote operation of the AK Railroad Bridge.

Conrail, on October 20, 2010 and at the request of the Coast Guard, presented its proposal to remotely

operate the bridge to the New York Harbor Operations Committee. Discussions between Conrail, the Coast Guard, and the New York Harbor Operations Committee ensued with no objections to the remote operation raised by the committee members.

##### **Discussion of Comments and Changes**

The Coast Guard received one comment in response to the notice of proposed rulemaking.

A comment letter was received from the Tug and Barge Committee of the Port of New York/New Jersey in opposition to operating the AK Bridge from a remote location. They stated that without bridge control and crewing on scene, the safe transport of products by the marine industry would be at risk if the remote control malfunctioned.

The AK Bridge is normally maintained in the full open position except for the passage of rail traffic which occurs approximately four times each day.

Should the remote operation fail a repair crew will be dispatched to the bridge within 45 minutes of the reported failure to repair the bridge.

Prior to publishing the notice of proposed rulemaking, the Coast Guard had discussions with the New York Harbor Operations Committee and Conrail. No objections to the remote operation were voiced at that time.

Subsequently, the remote operation was then successfully tested for a year with a draw tender present at all times. During the one year test period there were no failures or complaints received from mariners.

Based on the successful testing of the remote operation system, the Coast Guard believes that operating the AK Bridge remotely should safely meet the present and future needs of navigation. Should the remote operation fail a repair crew will be dispatched to the bridge within 45 minutes of the reported failure to repair the bridge.

As a result, no changes have been made to this final rule as far as the remote operation is concerned.

In drafting this final rule we noted a typographical error that was made in our notice of proposed rulemaking in the Basis and Background Section. We stated that the existing regulations were listed at 33 CFR 117.72, which was in error. The existing regulations are listed at 33 CFR 117.702. We corrected that error in this final rule.

##### **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, as supplemented by Executive Order 13563, Improving Regulation and Regulatory 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 conclusion is based on the fact that the bridge will continue to operate according to the existing regulations except that it will be controlled from either a remote location or locally.

##### **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 action will not have a significant economic impact on a substantial number of small entities for the following reason. The bridge will continue to operate according to existing regulations except that it will be controlled from either a remote location or locally.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM 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.

##### **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 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 Department of Homeland Security Management Directive 023–01 and 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is related to the promulgation of operating regulations or procedures for drawbridges and therefore is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction. Under figure 2–1, paragraph (32)(e), 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 117

Bridges.

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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.702 to read as follows:

#### § 117.702 Arthur Kill.

(a) The draw of the Arthur Kill (AK) Railroad Bridge shall be maintained in the full open position for navigation at all times, except during periods when it is closed for the passage of rail traffic.

(b) The bridge owner/operator shall maintain a dedicated telephone hot line for vessel operators to call the bridge in advance to coordinate anticipated bridge closures. The telephone hot line number shall be posted on signs at the bridge clearly visible from both the up and downstream sides of the bridge.

(c) Tide constrained deep draft vessels shall notify the bridge operator, daily, of their expected times of vessel transits through the bridge, by calling the designated telephone hot line.

(d) The bridge shall not be closed for the passage of rail traffic during any predicted high tide period if a tide constrained deep draft vessel has provided the bridge operator with an advance notice of their intent to transit through the bridge. For the purposes of this regulation, the predicted high tide period shall be considered to be from two hours before each predicted high tide to a half-hour after each predicted high tide taken at the Battery, New York.

(e) The bridge operator shall issue a manual broadcast notice to mariners of the intent to close the bridge for a period of up to 30 minutes for the passage of rail traffic, on VHF–FM channels 13 and 16 (minimum range of 15 miles) 90 minutes before and again at 75 minutes before each bridge closure.

(f) Beginning at 60 minutes prior to each bridge closure, automated or manual broadcast notice to mariners must be repeated at 15 minute intervals and again at 10 and 5 minutes prior to each bridge closure and once again as the bridge begins to close, at which point the appropriate sound signal will be given.

(g) Two 15 minute bridge closures may be provided each day for the passage of multiple rail traffic movements across the bridge. Each 15 minute bridge closure shall be separated by at least a 30 minute period when the bridge is returned to and remains in the full open position. Notification of the two 15 minute closures shall follow the same procedures outlined in paragraphs (e) and (f) above.

(h) A vessel operator may request up to a 30 minute delay for any bridge closure in order to allow vessel traffic to

meet tide or current requirements; however, the request to delay the bridge closure must be made within 30 minutes following the initial broadcast for the bridge closure. Requests received after the initial 30 minute broadcast will not be granted.

(i) In the event of a bridge operational failure, the bridge operator shall immediately notify the Coast Guard Captain of the Port New York. The bridge owner/operator must provide and dispatch a bridge repair crew to be on scene at the bridge no later than 45 minutes after the bridge fails to operate. A repair crew must remain on scene during the operational failure until the bridge has been fully restored to normal operations or until the bridge is raised and locked in the fully open position.

(j) When the bridge is not tended locally it must be operated from a remote location. A sufficient number of closed circuit TV cameras, approved by the Coast Guard, shall be operated and maintained at the bridge site to enable the remotely located bridge tender to have full view of both river traffic and the bridge.

(k) VHF-FM channels 13 and 16 shall be maintained and monitored to facilitate communication in both the remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels.

(l) Whenever the remote control system equipment is disabled or fails to operate for any reason, the bridge operator shall immediately notify the Captain of the Port New York. The bridge shall be physically tended and operated by local control as soon as possible, but no more than 45 minutes after malfunction or disability of the remote system.

(m) Mechanical bypass and override capability of the remote operation system shall be provided and maintained at all times.

Dated: July 6, 2011.

**James B. McPherson,**

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

[FR Doc. 2011-19322 Filed 7-29-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0567]

RIN 1625-AA00

#### Safety Zone; San Diego POPS Fireworks, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of San Diego Bay in support of the San Diego POPS Fireworks. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway during scheduled fireworks events. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

**DATES:** *Effective Date:* This rule is effective in the CFR from August 1, 2011 until 10 p.m., September 4, 2011. This rule is effective with actual notice for purposes of enforcement beginning 9 p.m. July 1, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0567 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0567 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 Petty Officer Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7262, e-mail [Shane.E.Jackson@uscg.mil](mailto:Shane.E.Jackson@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 necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect and delay would be impracticable.

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 because delaying the effective date would be impracticable, since immediate action is needed to ensure the public's safety.

#### Basis and Purpose

The San Diego Symphony Orchestra and Copley Symphony Hall are sponsoring the San Diego POPS Fireworks, which will include a fireworks presentation conducted from a barge in San Diego Bay. The barge will be located near the navigational channel in the vicinity of North Embarcadero. The temporary safety zone will be a 400-foot radius around the firing barge. The sponsor will provide a chase boat to patrol the safety zone and inform vessels of the safety zone. This temporary safety zone is necessary to provide for the safety of the crew, spectators, and other vessels and users of the waterway.

#### Discussion of Rule

The Coast Guard is establishing a temporary safety zone that will be enforced from 9 p.m. to 10 p.m. on the following dates: July 1-3, July 8-9, July 15-16, July 22-23, July 29-30, August 5-6, August 12-13, August 19-20, August 26-27, and September 2-4, 2011. The limits of the safety zone will be a 400-foot radius around the anchored firing barge in approximate position 32°42.13' N, 117°10.01' W.

The temporary safety zone is necessary to provide for the safety of the crews, spectators, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port, or his designated representative.