

<i>Latitude</i>	<i>Longitude</i>
39°13'34.82" N	76°32'23.66" W
39°13'22.25" N	76°32'28.90" W
39°13'21.20" N	76°33'11.94" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without a written permit from the Captain of the Port.

(7) *Anchorage No. 6, general anchorage.*

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°13'42.98" N	76°32'19.11" W
39°13'20.65" N	76°31'55.58" W
39°13'34.00" N	76°31'33.50" W
39°14'01.95" N	76°32'02.65" W
39°13'51.01" N	76°32'18.71" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without a written permit from the Captain of the Port.

(8) *Anchorage No. 7, Dead ship anchorage.*

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°13'00.40" N	76°34'10.40" W
39°13'13.40" N	76°34'10.81" W
39°13'13.96" N	76°34'05.02" W
39°13'14.83" N	76°33'29.80" W
39°13'00.40" N	76°33'29.90" W

(ii) The primary use of this anchorage is to lay up dead ships. Such use has priority over other uses. A written permit from the Captain of the Port must be obtained prior to the use of this anchorage for more than 72 hours.

(b) *Definitions.* As used in this section:

*Class 1 (explosive) materials* means Division 1.1, 1.2, 1.3, and 1.4 explosives, as defined in 49 CFR 173.50.

*Dangerous cargo* means certain dangerous cargo as defined in § 160.203 of this title.

(c) *General regulations.* (1) Except as otherwise provided, this section applies to vessels over 20 meters long and all vessels carrying or handling dangerous cargo or Class 1 (explosive) materials while anchored in an anchorage ground described in this section.

(2) Except in cases where unforeseen circumstances create conditions of imminent peril, or with the permission of the Captain of the Port, no vessel shall be anchored in Baltimore Harbor and Patapsco River outside of the anchorage areas established in this section for more than 24 hours. No vessel shall anchor within a tunnel, cable or pipeline area shown on a government chart. No vessel shall be moored, anchored, or tied up to any

pier, wharf, or other vessel in such manner as to extend into established channel limits. No vessel shall be positioned so as to obstruct or endanger the passage of any other vessel.

(3) Except in an emergency, a vessel that is likely to sink or otherwise become a menace or obstruction to navigation or the anchoring of other vessels may not occupy an anchorage, unless the vessel obtains a permit from the Captain of the Port.

(4) The Captain of the Port may grant a revocable permit to a vessel for a habitual use of an anchorage. Only the vessel that holds the revocable permit may use the anchorage during the period that the permit is in effect.

(5) Upon notification by the Captain of the Port to shift its position, a vessel at anchor shall get underway and shall move to its new designated position within 2 hours after notification.

(6) The Captain of the Port may prescribe specific conditions for vessels anchoring within the anchorages described in this section, including, but not limited to, the number and location of anchors, scope of chain, readiness of engineering plant and equipment, usage of tugs, and requirements for maintaining communication guards on selected radio frequencies.

(7) No vessel at anchor or at a mooring within an anchorage may transfer oil to or from another vessel unless the vessel has given the Captain of the Port the four hours advance notice required by § 156.118 of this title.

(8) No vessel shall anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without prior approval of the Captain of the Port.

(d) *Regulations for vessels handling or carrying dangerous cargoes or Class 1 (explosive) materials.*

(1) This paragraph (d) applies to every vessel, except a U.S. naval vessel, handling or carrying dangerous cargoes or Class 1 (explosive) materials.

(2) The Captain of the Port may require every person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, to hold a form of identification prescribed in the vessel's security plan.

(3) Each person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, shall present the identification prescribed by paragraph (d)(2) of this section to any Coast Guard Boarding Officer who requests it.

(4) Each non-self-propelled vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials must have a tug in attendance at all times while at anchor.

(5) Each vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while at anchor must display by day a bravo flag in a prominent location and by night a fixed red light.

Dated: September 28, 2004.

**Ben Thomason III,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-04-179]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Mantua Creek, Paulsboro, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the regulations that govern the operation of the S.R. 44 bridge over Mantua Creek, at mile 1.7, in Paulsboro, New Jersey. The bridge will be closed to navigation from 8 a.m. on September 12, 2005, through 6 p.m. on December 9, 2005. The extensive structural, mechanical, and electrical repairs and improvements necessitate this closure.

**DATES:** Comments and related material must reach the Coast Guard on or before November 26, 2004.

**ADDRESSES:** You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, VA 23704-5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Anton Allen, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6227.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05-04-179 indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The New Jersey Department of Transportation (NJDOT) owns and operates the S.R. 44 Bridge over Mantua Creek in Paulsboro, NJ. The current regulations set out in 33 CFR 117.729 require the draw to open on signal from March 1 through November 30 from 7 a.m. to 11 p.m., and to open on signal at all other times upon four hours notice.

Parsons Brinckerhoff, a design consultant, on behalf of NJDOT requested a temporary change to the existing regulations for the S.R. 44 Bridge over Mantua Creek to facilitate necessary repairs. The repairs consist of structural rehabilitation and various mechanical, electrical repairs and improvements. To facilitate repairs, the vertical lift span must be closed to vessel traffic from 8 a.m. on September 12, 2005, through 6 p.m. on December 9, 2005.

The Coast Guard has reviewed bridge opening data provided by the New Jersey Department of Transportation. The data, from years 2000 to 2002, shows a substantial decrease in the numbers of bridge openings and vessel traffic transiting the area after the Labor Day weekend. Based on the data provided, the proposed closure dates

will have minimal impact on vessel traffic.

**Discussion of Proposed Rule**

The Coast Guard proposes to amend the regulations governing the S.R. 44 Bridge over Mantua Creek, mile 1.7, which currently opens on signal from March 1 through November 30 from 7 a.m. to 11 p.m., and open on demand at all other times upon four hours notice. The Coast Guard proposes to suspend 33 CFR § 117.729(b) and insert this new specific regulation at 33 CFR § 117.729(c).

Paragraph (c) would allow the draw to be closed to vessel traffic during the rehabilitation project from 8 a.m. on September 12, 2005, through 6 p.m. on December 9, 2005.

**Regulatory Evaluation**

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We established this conclusion based on historical data, and on the fact that the proposed closure dates support minimal impact due to the reduced number of vessels requiring transit through the bridge.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. The off-season closure dates proposed for the bridge are designed to minimize the number of small entities affected.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity

and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

**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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. 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 proposed rule would call 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 proposed 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 proposed 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 proposed rule would 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 proposed 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

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

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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. From 8 a.m. on September 12, 2005 until 6 p.m. on December 9, 2005, in § 117.729, suspend paragraph (b) and add a new paragraph (c) to read as follows:

### § 117.729 Mantua Creek.

\* \* \* \* \*

(c) From 8 a.m. on September 12, 2005, through 6 p.m. on December 9, 2005, the S.R. 44 Bridge, mile 1.7, at Paulsboro, may remain closed to navigation.

Dated: September 22, 2004.

**Sally Brice-O'Hara,**

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

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

[CGD05–04–168]

RIN 1625–AA09

## Drawbridge Operation Regulations; Christina River, Wilmington, DE

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulations that govern the operation of the Norfolk Southern (NS) Railroad Bridge across Christina River, at mile 1.4, in Wilmington, DE. The proposed change would maintain the bridge's current level of operational capabilities and continue to provide for the reasonable needs of rail transportation and vessel navigation.

**DATES:** Comments and related material must reach the Coast Guard on or before December 13, 2004.

**ADDRESSES:** You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, VA 23704–5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Anton Allen, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6227.

## SUPPLEMENTARY INFORMATION:

## Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05–04–168, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment