

§ 804.4 Submission and approval.

(a) *Offender programs and equipment and vocational training services.* (1) Any person or organization wishing to donate as a gift in-kind contributions of space or hospitality to support offender programs, or equipment or vocational training services to educate and train offenders may submit the following information in writing to the Agency's Ethics Officer in the Office of the General Counsel:

- (i) The name of the person or organization offering the gift;
- (ii) A description of the gift;
- (iii) The estimated value of the gift;
- (iv) Any restrictions on the gift placed by the donor; and
- (v) A signed statement that the gift is unsolicited.

(2) The Director, after consultation with the Agency's Ethics Officer, shall determine whether to accept or reject the gift.

(3) CSOSA staff shall advise the person offering the gift of the Agency's determination, including, if applicable, the reason for rejection. Reasons for rejecting a gift include findings that:

- (i) There is a conflict of interest in accepting the gift;
- (ii) Acceptance of the gift is otherwise unlawful or would create the appearance of impropriety;
- (iii) Acceptance of the gift would obligate the Agency to an unbudgeted expenditure of funds; or
- (iv) Operation of the program, equipment, or vocational training services would not be practicable.

(b) *Defendant programs and equipment and vocational training services.* (1) Any person or organization wishing to donate as a gift in-kind contributions of space or hospitality to support defendant programs, or equipment or vocational training services to educate and train defendants may submit the following information in writing to the Agency's Ethics Officer in the Office of the General Counsel:

- (i) The name of the person or organization offering the gift;
- (ii) A description of the gift;
- (iii) The estimated value of the gift;
- (iv) Any restrictions on the gift placed by the donor; and
- (v) A signed statement that the gift is unsolicited.

(2) The General Counsel shall forward the request to PSA's Director with a recommendation whether to accept or reject the gift.

(3) PSA staff shall advise the person offering the gift of the Agency's determination, including the reason for rejection. Reasons for rejecting a gift include findings that:

- (i) There is a conflict of interest in accepting the gift;

(ii) Acceptance of the gift is otherwise unlawful or would create the appearance of impropriety;

(iii) Acceptance of the gift would obligate the Agency to an unbudgeted expenditure of funds; or

(iv) Operation of the program, equipment, or vocational training services would not be practicable.

§ 804.5 Audit and public inspection.

(a) Records regarding the acceptance and use of gifts shall be made available for Federal Government audit.

(b) Public inspection of records regarding the acceptance and use of gifts shall be afforded through Freedom of Information Act requests (*see* 28 CFR part 802).

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

[CGD05-04-071]

RIN 1625-AA09

Drawbridge Operation Regulations; Manasquan River, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations and request for comments.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations to test an alternate drawbridge operation regulation for the Route 70 Bridge across Manasquan River, mile 3.4, at Riviera Beach, New Jersey. Under this temporary 90-day deviation, the draw of the bridge will open on signal on the hour, except that from 5 p.m. to 7 p.m., Monday through Friday and from 11 p.m. to 7 a.m. every day the draw need not be opened. The purpose of this temporary deviation is to test an alternate drawbridge operation schedule for 90 days and solicit comments from the public.

DATES: This deviation is effective from May 1, 2004, through July 29, 2004. Comments must reach the Coast Guard on or before August 31, 2004.

ADDRESSES: You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or they may be hand delivered to

the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. The Commander (obr), Fifth Coast Guard District maintains the public docket for this deviation. 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 the above address.

Request for Comments

We encourage you to participate in evaluating this test schedule by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this deviation CGD05-04-071, 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.

FOR FURTHER INFORMATION CONTACT:

Waverly W. Gregory Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION: Effective on July 11, 2003, the bridge owner, the New Jersey Department of Transportation, was officially permitted to operate the Route 70 Bridge across Manasquan River with new regulations. The new operating regulations listed at 33 CFR 117.727 allows the draw of the bridge to open on signal on the hour, except that from 4 p.m. to 7 p.m. Monday through Friday and from 11 p.m. to 7 a.m., every day the draw need not be open.

Based on comments received on the new operating regulations of the bridge and in an effort to facilitate vessel and vehicular traffic while providing for the reasonable needs of navigation, the District Commander has offered a test period to reexamine the rush hour closure periods during the forthcoming recreational boating season. The new proposal will test a new rush hour period from 5 p.m. to 7 p.m. Monday through Friday, except Federal holidays, as opposed to the current 4 p.m. to 7 p.m. regulatory hours. Therefore, the last drawbridge opening for vessels before the rush hour will occur at 4 p.m. and first opening following the rush hour will be at 7 p.m.

Under this 90-day temporary deviation, effective from May 1, 2004 through July 29, 2004, the Route 70 Bridge across Manasquan shall open on signal on the hour, except that from 5 p.m. to 7 p.m., Monday through Friday and from 11 p.m. to 7 a.m., every day the draw need not be opened.

This deviation from the operating regulations is authorized under 33 CFR 117.43.

Dated: April 12, 2004.

Waverly W. Gregory, Jr.,

Chief, Bridge Branch, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05-03-121]

RIN 1625-AA09

Drawbridge Operation Regulation: Mantua Creek, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulations for the Consolidated Rail Corporation (CONRAIL) Railroad Bridge across Mantua Creek at mile 1.4, in Paulsboro, New Jersey. The final rule for the CONRAIL Railroad Bridge will increase vessel openings and eliminate the need for a bridge tender by allowing the bridge to be operated by a train crewmember. The final rule will provide for the reasonable needs of navigation.

DATES: This rule is effective May 20, 2004.

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 CGD05-03-121 and are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On November 25, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Mantua Creek, New Jersey" in the **Federal Register** (68 FR 66062). We received two letters commenting on the proposed rule. No public hearing was requested nor held.

Background and Purpose

CONRAIL, who owns and operates this movable (swing-type) bridge, requested changes to the operating procedure for the drawbridge located at mile 1.4 across Mantua Creek, in Paulsboro, New Jersey. Currently, 33 CFR 117.729(a) requires the bridge to open on signal except, that from December 1 through March 1, the draw must open on signal at all times upon four hours notice.

CONRAIL installed a new Programmable Logic Controller and associated mechanical, electrical and signal apparatus on the CONRAIL Railroad Bridge over Mantua Creek in Paulsboro, New Jersey. This rule allows a radio-controlled system to operate the opening and closing of the swing span from the cab of the locomotive. From March through November, the swing bridge will normally be left in the fully opened position displaying flashing green channel lights indicating that vessels may pass through. At all other times, the draw of the CONRAIL Railroad Bridge need only open on signal if at least four hours notice is given by calling (856) 231-2393.

Discussion of Comments and Changes

The Coast Guard received two comments on the NPRM. The first comment, from CONRAIL, noted that when the bridge is seated and locked down to vessels, the channel traffic lights will continue to flash red. The proposed rule, in paragraph (a) (1)(iv), stated that the channel traffic lights "will extinguish".

The second comment, from New Jersey Department of Transportation (NJDOT), had expressed concerns that the method of signaling proposed by CONRAIL for the opening and closing of the span might cause boater confusion and reduce safety. The NJDOT operates the upstream Route 44 Bridge at mile 2.7 across Mantua Creek in Paulsboro, and uses the standard signaling for drawbridges delineated in 33 CFR 117.15. NJDOT correctly indicated that, at 33 CFR 117.15(a)(4), the sound signal for a horn to acknowledge that the drawbridge is about to open for vessels is one prolonged blast followed by a short blast. The proposed rule, in

paragraph (a)(1)(iv), stated the horn would sound, "twice" followed by "five repeated blasts".

NJDOT also indicated that before closing a draw span to vessels, 33 CFR 117.15(a)(5) requires the acknowledging signal as five short blasts of the horn in rapid succession. The proposed rule, in paragraph (a)(1)(v), stated that the horn would sound "twice" then "two horn blasts".

The Coast Guard considers these changes proposed to be more reliable and the final rule was changed to reflect these procedures.

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). We reached this conclusion based on the fact that this final rule for the CONRAIL Railroad Bridge will provide for greater flow of vessel traffic than the current regulations for the drawbridge.

Under the current regulations, the CONRAIL Railroad Bridge remains closed and opens after proper signal from March 1 through November 30. The final rule will require the bridge to remain in the open position during this period, permitting vessels to pass freely. The bridge will close only for train crossings and bridge maintenance. This final rule will provide for the reasonable needs of navigation.

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 final rule will not have a significant economic impact on a substantial number of small entities for the following reasons. The final rule will provide for the CONRAIL Railroad Bridge to remain in the open position