

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

[CGD05–06–086]

RIN 1625–AA09

**Drawbridge Operation Regulations; Darby Creek, Essington, PA**

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulation that governs the Consolidated Rail Corporation (CONRAIL) Railroad Bridge, at mile 0.3, across Darby Creek in Essington, Pennsylvania. This change will allow the bridge to be left in the open-to-navigation position from April 1 through October 31 of every year. The bridge will only close for the passage of trains and to perform periodic maintenance. From November 1 to March 31, the bridge will open on signal, if at least 24 hours notice is given by calling (856) 231–7088 or (856) 662–8201.

**DATES:** This rule is effective January 26, 2007.

**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 CGD05–06–086 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

On September 11, 2006, we published a notice of proposed rule (NPRM) entitled “Drawbridge Operation Regulations; Darby Creek, PA” in the *Federal Register* (71 FR 53352). We received no comments on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

CONRAIL owns and remotely operates the railroad drawbridge across Darby Creek, at mile 0.3, located in Essington, Pennsylvania. The current operating regulation set out in 33 CFR 117.903 requires that from May 15 through October 15, the draw be left in

the open position at all times and be lowered only for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part. From October 16 through May 14, the draw shall open on signal if at least 24 hours notice is given by telephone at (856) 231–7088 or (856) 662–8201. Operational information will be provided 24 hours a day at the same telephone numbers.

The CONRAIL Railroad Bridge, a bascule-type drawbridge, has a vertical clearance in the closed position to vessels of approximately three feet above mean high water; and unlimited vertical clearance in the open-to-navigation position.

The Ridley Township Municipal Marina Authority requested a change to the operating regulations for the Railroad Bridge, due to increased marine traffic under the bridge from April 1 to October 31. CONRAIL agreed to modify the operating regulations of the drawbridge to accommodate additional vessel traffic.

**Discussion of Comments and Changes**

The Coast Guard did not receive any comments on the NPRM. Therefore, no changes were made to the final rule.

**Discussion of Rule**

The Coast Guard is revising 33 CFR 117.903(a), which governs the CONRAIL railroad drawbridge across Darby Creek, at mile 0.3 in Essington, Pennsylvania, by amending paragraphs (a)(3) and (a)(13). From April 1 through October 31, the bridge will be left in the open position and will only close for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part. From November 1 to March 31, the draw of the CONRAIL Railroad Bridge need only open on signal if at least 24 hours notice is given by calling (856) 231–7088 or (856) 662–8201. Operational information will be provided 24 hours a day by telephone at (856) 231–7088 or (856) 662–8201, respectively.

**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 conclusion is based on the fact CONRAIL, the only known land user of

the bridge, has agreed to the change in the operating regulations.

**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 would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact the rule would not have a significant economic impact on a substantial number of small entities because CONRAIL, the only known land user of the bridge, has agreed to the change in the operating regulations.

**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. No assistance was requested from any small entity.

**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 this preamble.

### Taking of Private Property

This rule will not effect 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 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 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 and Department of Homeland Security Management Directive 5100.1, 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 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 because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

### List of Subjects in 33 CFR Part 117

Bridges.

■ 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; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Section 117.903 is amended by revising paragraphs (a)(3) and (a)(13) to read as follows:

#### §117.903 Darby Creek.

(a) \* \* \*

(3) From April 1 through October 31, the draw shall be left in the open position at all times and will only be lowered for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

\* \* \* \* \*

(13) From November 1 through March 31, the draw shall open on signal if at least 24 hours notice is given by

telephone at (856) 231–7088 or (856) 662–8201. Operational information will be provided 24 hours a day by telephone at (856) 231–7088 or (856) 662–8201.

\* \* \* \* \*

Dated: December 14, 2006.

**L.L. Hereth,**

*Rear Admiral, United States Coast Guard,  
Commander, Fifth Coast Guard District.*

[FR Doc. E6–22149 Filed 12–26–06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[EPA–HQ–OAR–2006–0841; FRL–8261–9]

### Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the East St. Louis, Illinois Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** Under section 211(k)(6) of the Clean Air Act, the Administrator of EPA shall require the sale of reformulated gasoline (RFG) in an ozone nonattainment area classified as marginal, moderate, serious or severe upon the application of the Governor of the state in which the nonattainment area is located. In this direct final action, EPA is today extending the Act's prohibition against the sale of conventional gasoline (i.e., gasoline that is not RFG) to the Illinois portion of the St. Louis, Missouri-Illinois 8-hour ozone nonattainment area hereafter referred to as the East St. Louis nonattainment area. The RFG requirements will apply to refiners and all other persons in the fuel distribution system other than retailers and wholesale purchaser-consumers on May 1, 2007. For retailers and wholesale purchaser-consumers, the requirements of today's rule will apply on June 1, 2007. As of the June 1, 2007 implementation date, this area will be treated as a covered area for all purposes of the federal RFG program.

**DATES:** This final rule is effective on May 1, 2007 without further notice, unless EPA receives adverse comments by January 26, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–