

that is replaced by another bond, whether it be a trust fund or other financial instrument used as a collateral bond, that will cover the area and cost of treatment facilities. Therefore, to the extent that the reference in section 4(g)(3) to release of the "whole" bond means the original bond that is replaced by the new bond in the form of another financial assurance mechanism, that reference is approved.

Section 4(g)(3) was also amended by deleting bond release language applicable to noncoal surface mining operations. Since SMCRA contains no counterpart to this language, the deletion of the language does not render the Pennsylvania program inconsistent with SMCRA or the implementing Federal regulations.

For the above noted reasons, we are approving the amendments to Section 4(g)(3).

Dated: July 14, 2005.

**Brent Wahlquist,**

*Regional Director, Appalachian Region.*

[FR Doc. 05-17613 Filed 9-2-05; 8:45 am]

BILLING CODE 4310-05-M

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-05-081]

RIN 1625-AA09

#### Drawbridge Operation Regulations: Townsend Gut, ME

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the drawbridge operation regulations for the operation of the SR 27 Bridge, at mile 0.7, across Townsend Gut, between Boothbay Harbor and Southport, Maine. This temporary rule allows the bridge to open at specific times between 6 a.m. and 8 p.m., after a half-hour advance notice is given. Additionally, this temporary rule allows the bridge to remain closed for nine days, September 19, 2005 through September 27, 2005. This action is necessary to help facilitate rehabilitation construction and painting at the bridge.

**DATES:** This rule is effective from September 6, 2005 through November 30, 2005.

**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 (CGD01-05-081) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. Additionally, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for making this temporary final rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard believes that not publishing an NPRM and making this final rule effective less than 30 days after publication is necessary for the reasons discussed below, coupled with the fact that the bridge rehabilitation is necessary, vital work that must be performed in order to assure the continued, safe, and reliable operation of the bridge. Any delay in the implementation of this regulation would not be in the best interest of the public and public safety.

On January 5, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 773). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held. Then, on March 16, 2005, we published a temporary final rule (TFR) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 12805) which suspended the existing regulations and put in place temporary rules effective until November 30, 2005.

On July 23, 2005, the bridge owner requested additional regulatory action to help facilitate the timely completion of the bridge painting aspect of this project. The contractor's progress would not allow completion of the project on time before the winter months, which require painting operations to stop due to cold temperatures. As a result, the bridge owner requested that the bridge remain closed at night from 8 p.m. through 6 a.m. to allow the contractor uninterrupted time to complete the bridge repairs and painting. However, before we could publish the requested

change to the temporary regulation the bridge owner again changed their request. The bridge owner advised the Coast Guard that the night closure plan would not work due to known adverse public response to nighttime operations.

As a result of the late notice from the bridge owner and the necessity to complete vital repairs, the Coast Guard is now revising the current rules to allow the bridge to open less frequently during the daytime.

##### Background and Purpose

The SR 27 Bridge has a vertical clearance of 10 feet at mean high water, and 19 feet at mean low water in the closed position. The permanent drawbridge operating regulations at 33 CFR 117.5, which were suspended from March 14, 2005 through November 30, 2005, require the bridge to open on signal at all times.

On January 5, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 773). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

On March 16, 2005, we published a temporary final rule (TFR) entitled Drawbridge Operation Regulations, Townsend Gut, Maine, in the **Federal Register** (70 FR 12805).

On July 23, 2005, the bridge owner requested additional regulatory action to help facilitate the timely completion of the bridge painting portion of this project. The contractor's progress would not allow completion of the project before the winter months when painting operations are not possible due to cold temperatures. As a result, the Coast Guard is revising the current temporary rules to allow the bridge to open less frequently during the daytime. A half-hour advance notice will be required to allow the construction workers sufficient time to clear the bridge before each bridge opening. Under this temporary rule the bridge will open during the daytime at 6 a.m., 12 p.m., 6 p.m. and 8 p.m., after a half-hour notice is given by calling the number posted at the bridge. At all other times from 8 p.m. until 6 a.m., the bridge will open on signal.

In order to facilitate necessary repairs, the bridge owner requested a nine-day bridge closure from September 19, 2005 through September 27, 2005. Therefore, in addition to the 4 closure periods identified in the March 16, 2005 temporary final rule, which have already occurred, the bridge will be closed from September 19, 2005 through

September 27, 2005 under this regulation.

### Discussion of Changes

The Coast Guard is changing temporary final rule 117.T536, which authorized the bridge to open at 6 a.m., 8 a.m., 10 a.m., 12 p.m., 2 p.m., 4 p.m., and 6 p.m., after a half-hour notice is given. This temporary final rule changes that schedule to allow the bridge to open at 6 a.m., 12 p.m., 6 p.m., and 8 p.m. after a half-hour notice is given by calling the number posted at the bridge. At all other times from 8 p.m. to 6 a.m., the bridge will open on signal. In addition, a nine-day closure is in effect from September 19, 2005 through September 27, 2005.

### 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 that vessel traffic will still be able to transit through the SR 27 Bridge under a fixed opening schedule. Vessel operators may adjust their schedules to correspond with the opening schedule at the bridge. Vessel operators may also use the alternate route should they need to transit at other times.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 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 conclusion is based on the fact that vessel traffic will still be able to transit through the SR 27 Bridge under a fixed opening schedule. Vessel operators may adjust their schedules to correspond with the opening schedule at the bridge. Vessels operators may also

use an alternate route should they need to transit at other times.

### Assistance for Small Entities

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

During the course of rulemaking upon this bridge, beginning on January 5, 2005, no small entities requested Coast Guard assistance and none was given.

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).

### 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 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 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 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this final rule under Commandant Instruction M16475.1D, 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 rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined that this final rule does not significantly impact the environment.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—[AMENDED]

- 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. 170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

- 2. Revise § 117.T536 to read as follows:

#### § 117.T536 Townsend Gut.

The draw of the SR 27 Bridge, mile 0.7, across Townsend Gut shall operate as follows:

(a) From September 6, 2005 through November 30, 2005, the SR 27 Bridge shall open on signal at 6 a.m., 12 p.m., 6 p.m., and 8 p.m., after at least a half-hour advance notice is given by calling the number posted at the bridge. At all other times from 8 p.m. to 6 a.m. the draw shall open on signal.

(b) From September 19, 2005 through September 27, 2005, the bridge need not open for the passage of vessel traffic.

Dated: August 25, 2005.

**Mark J. Campbell,**

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

[FR Doc. 05–17714 Filed 9–1–05; 2:26 pm]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DC102–2050; FRL–7953–9]

### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Update to Materials Incorporated by Reference

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

**ACTION:** Final rule; Notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by the District of Columbia that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the State agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

**EFFECTIVE DATE:** This action is effective September 6, 2005.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., Room B108, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814–2108 or by e-mail at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

#### SUPPLEMENTARY INFORMATION:

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and Office

of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and “Identification of plan” format are discussed in further detail in the May 22, 1997 **Federal Register** document.

On December 7, 1998, (63 FR 67407) EPA published a document in the **Federal Register** beginning the new IBR procedure for the District of Columbia. On August 6, 2004 (69 FR 47773), EPA published an update to the IBR material for the District of Columbia. In this action, EPA is doing the following:

1. Announcing the second update to the material being IBR’ed.
  2. Making corrections to the chart listed in § 52.470(c), as described below:
    - a. Chapter 1 (General), Section 199 (Definitions and Abbreviations)—Entries for Section 199 which were inadvertently removed by a December 28, 2004 rulemaking action are being restored to the table.
    - b. Chapter 3 (Operating Permits), Section 307, the State effective date is revised to read “4/16/04.”
    - c. Chapter 6 (Particulates), Section 600.1—In the “Additional explanation” column, a brief description of the revision is added.
    - d. Chapter 7 (Volatile Organic Compounds), Section 715—the State effective date is revised to read “4/16/04.”
    - e. Chapter 7, Sections 749 through 754—an entry is added to the “Additional explanation” column to reference a related correction final rulemaking action.
    - f. Chapter 7, Section 799—An entry for Section 799 which was inadvertently deleted by a December 23, 2004 rulemaking action is being restored.
    - g. Chapter 7, Section 799—The entry in the “Title/subject” column is revised to read “Definitions and Abbreviations.”
    - h. Chapter 7, Section 799—Language is added to the “Additional explanation” column to provide a brief explanation of the entries for this section.
    - i. Chapter 8 (Asbestos, Sulfur, and Nitrogen Oxides), Section 805—In the “EPA approval date” column, the **Federal Register** page citation is revised, and the language in the “Additional explanation” section is revised to include citations for all of the revised paragraphs.
- EPA has determined that today’s falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately