

**§ 917.16 Required regulatory program amendments.**

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(p) We are requiring Kentucky to take one of the following actions by March 30, 2018: (1) Notify us how Kentucky will require operators to address financial assurances for the treatment of post-mining discharges, potentially in perpetuity, under its currently approved program, given that we are not approving 405 KAR 10:015 8(7); or (2) Submit an amendment to its approved program, or a written description of an amendment together with a timetable for enactment that is consistent with established administrative or legislative procedures in Kentucky, that requires operators to provide sufficient financial assurances for the treatment of post-mining discharges for as long as such discharges continue to exist.

**Editorial note:** This document was received for publication by the Office of the Federal Register on January 24, 2018.

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

[Docket No. USCG-2017-1015]

RIN 1625-AA09

**Drawbridge Operation Regulation; China Basin, Mission Creek, San Francisco, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily modifying the operating schedule that governs the 3rd Street Bridge, across China Basin, Mission Creek, mile 0.0, at San Francisco, California. The bridge owner, the City of San Francisco, submitted a request to secure the bridge in the closed-to-navigation position for 18 months in order to conduct critical mechanical and structural rehabilitation of the bridge. The temporary change to the regulations is expected to meet the reasonable needs of navigation on the waterway.

**DATES:** This temporary final rule is effective from 6 a.m. on February 28, 2018, until 11 p.m. on September 30, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG-

2017-1015 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510-437-3516; email [Carl.T.Hausner@uscg.mil](mailto:Carl.T.Hausner@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
IAW In accordance with  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

On November 14, 2017, we published a NPRM entitled, "Drawbridge Operation Regulation; China Basin, Mission Creek, San Francisco, CA" in the **Federal Register** (82 FR 218). We received no comments on this rule.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The 3rd Street Bridge, across China Basin, Mission Creek, mile 0.0, at San Francisco, California, is a single leaf bascule bridge which provides 3 feet of vertical clearance at mean high water in the closed position and unlimited vertical clearance in the open position. According to the Coast Guard Drawbridge Operation Regulations in 33 CFR 117.149 the draw shall open on signal if at least one hour notice is given.

The owner of the bridge, the City of San Francisco, has submitted a request to the Coast Guard to keep the bridge in the closed-to-navigation position for 18 months to complete critical mechanical and structural rehabilitation of the bridge.

China Basin, Mission Creek, is 0.64 miles in length with the 3rd Street Bridge at the mouth of the basin. Approximately 35 recreational vessels are moored upstream of the bridge and require the drawspan to open in order to depart the basin into San Francisco Bay. There are no commercial vessels that regularly use the waterway. The City of San Francisco has indicated that they will assist vessel owners in China Basin, Mission Creek, to find alternate moorings during the closure period. Vessels able to transit the bridge, while in the closed-to-navigation position, can continue to do so during the closure period.

Under this temporary final rule the draw need not open for the passage of vessels from 6 a.m. on February 28, 2018, until 11 p.m. on September 30, 2019.

If necessary, during this temporary final rule period, the draw shall open on signal if at least 45 days notice is given.

**IV. Discussion of Comments, Changes, and the Temporary Final Rule**

The Coast Guard provided a comment period of 30 days and no comments were received. As a result, no changes have been made to the rule as proposed.

**V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

**A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the limited number of vessels impacted and the ability of those vessel owners, located upstream of the bridge, to receive assistance from the City of San Francisco in finding alternate moorings while the bridge is in the closed-to-navigation position.

**B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this rule. 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.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. 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. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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). 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.

#### C. 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).

#### D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

#### E. 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.

#### F. 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 made a determination 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 simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 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. From 6 a.m. on February 28, 2018, until 11 p.m. on September 30, 2019,

§ 117.149, is suspended and § 117.149(T) is added to read as follows:

#### § 117.149–T China Basin, Mission Creek.

(a) The draw of the 3rd Street bridge, mile 0.0, at San Francisco, need not be opened for the passage of vessels. The draw shall be returned to operable condition within 45 days after notification by the District Commander to do so.

(b) The draw of the 4th Street bridge, mile 0.2, at San Francisco, shall open on signal if at least one hour notice is given.

Dated: January 23 2018.

**Todd A. Sokalzuk,**

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2018–0057]

#### Drawbridge Operation Regulation; Three Mile Slough, Rio Vista, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the California Route 160 Drawbridge across Three Mile Slough, mile 0.1, near Rio Vista, CA. This deviation allows the bridge to remain in the closed-to-navigation position while the bridge owner conducts emergency repairs.

**DATES:** This deviation is effective without actual notice from January 29, 2018 through 11 p.m. on February 23, 2018. For the purposes of enforcement, actual notice will be used from 10:30 a.m. on December 16, 2017, until January 29, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2018–0057, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email [Carl.T.Hausner@uscg.mil](mailto:Carl.T.Hausner@uscg.mil).