

**§ 50.5 Definitions.**

\* \* \* \* \*

(g) *Insurer deductible* means:

\* \* \* \* \*

(3) Notwithstanding paragraph (g)(2) of this section, the insurer deductible for Program Year 3 (January 1, 2005 through December 31, 2005) for an insurer that has not had a full year of operations during calendar year 2004 will be based on annualized data for the insurer's direct earned premiums for Program Year 3, multiplied by 15 percent. For an insurer that came into existence after November 26, 2002 and has had a full year of operations during calendar year 2004, the insurer deductible for Program Year 3 is the value of an insurer's direct earned premiums over calendar year 2004, multiplied by 15 percent.

■ 3. Subpart A of part 50 is amended by revising § 50.20(b) to read as follows:

**§ 50.20 General mandatory availability requirements.**

\* \* \* \* \*

(b) *Program Year 3—calendar year 2005.* In accordance with the determination of the Secretary announced June 18, 2004, an insurer must comply with paragraphs (a)(1) and (a)(2) of this section during Program Year 3. Notwithstanding paragraph (a)(2) of this section and § 50.23(a), property and casualty insurance coverage for insured losses does not have to be made available beyond December 31, 2005 (the last day of Program Year 3) even if the policy period of insurance coverage for losses from events other than acts of terrorism extends beyond that date.

■ 4. Subpart A of part 50 is amended by revising § 50.21(a) to read as follows:

**§ 50.21 Make available.**

(a) *General.* The requirement to make available coverage as provided in § 50.20 applies to policies in existence on November 26, 2002, new policies issued and renewals of existing policies during the period beginning on November 26, 2002 and ending on December 31, 2004 (the last day of Program Year 2), and to new policies issued and renewals of existing policies in Program Year 3 (calendar year 2005). The requirement applies at the time an insurer makes the initial offer of coverage as well as at the time an insurer makes an initial offer of renewal of an existing policy.

\* \* \* \* \*

Dated: February 1, 2005.

**Gregory Zerzan,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 05-2810 Filed 2-11-05; 8:45 am]

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

**[CGD08-04-036]**

**RIN 1625-AA09**

**Drawbridge Operation Regulation; St. Croix River, MN**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is changing the regulation governing the Stillwater Highway Drawbridge, across the St. Croix River at Mile 23.4, at Stillwater, Minnesota. Under this rule, the drawbridge need not open for river traffic and may remain in the closed-to-navigation position from midnight, October 14, 2005, until midnight, March 15, 2006. This rule allows time to perform maintenance and repairs to the bridge.

**DATES:** This rule is effective from midnight, October 14, 2005 until midnight, March 15, 2006.

**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 the docket [CGD08-04-036] and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Commander (obr), Eighth Coast Guard District, maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 539-3900, extension 2378.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On November 5, 2004, we published a notice of proposed rulemaking (NPRM) entitled, "Drawbridge Operation Regulation; St. Croix River, Minnesota," in the **Federal Register** (69 FR 64553). We received no comment letters on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

On September 13, 2004, the Minnesota Department of Transportation, requested a temporary change to the operation of the Stillwater Highway Drawbridge across the St. Croix River, Mile 23.4, at Stillwater, Minnesota to allow the drawbridge to remain in the closed-to-navigation position for 152 consecutive days for critical repairs and maintenance.

The Stillwater Highway Drawbridge navigation span has a vertical clearance of 10.9 feet above normal pool in the closed to navigation position.

Navigation on the waterway consists primarily of commercial and recreational watercraft and will not be significantly impacted due to the reduced navigation in winter months. Presently, the draw opens from October 16 until May 14 with 24 hours advance notice for passage of river traffic. The Minnesota Department of Transportation requested the drawbridge be permitted to remain closed-to-navigation from midnight, October 14, 2005 until midnight, March 15, 2006. Winter conditions on the St. Croix River will preclude any significant navigation demands for the drawspan opening. Performing maintenance on the bridge during the winter, when the number of vessels likely to be impacted is minimal, is preferred to bridge closure or advance notification requirements during the navigation season. This temporary change to the drawbridge's operation has been coordinated with the commercial waterway operators.

**Discussion of Comments and Changes**

The Coast Guard received no comment letters. No changes will be made to this final rule.

**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).

The Coast Guard expects that this temporary change to the operation of the Stillwater Highway Drawbridge will have minimal economic impact on commercial traffic operating on the St. Croix River. This temporary change has been written in such a manner as to allow for minimal interruption of the drawbridge's regular operation.

### 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.

### 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. 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 1–800–REG–FAIR (1–800–734–3247).

### 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 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 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 create an environmental risk to health or risk to safety that may 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 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.

### 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 regulatory 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 M16475.1D, 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.

Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ 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; 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 midnight, October 14, 2005, until midnight, March 15, 2006, in § 117.667, suspend paragraph (b) and add a new paragraph (f) to read as follows:

**§ 117.667 St. Croix River.**

\* \* \* \* \*

(f) The Stillwater Highway Drawbridge, mile 23.4, St. Croix River, at Stillwater, Minnesota, need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: January 26, 2005.

**R.F. Duncan,**

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

[FR Doc. 05-2797 Filed 2-11-05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-TX-0004; FRL-7872-7]

#### Approval and Promulgation of State Implementation Plans; Texas; Revision to the Rate of Progress Plan for the Houston/Galveston (HGA) Ozone Nonattainment Area

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to the Texas State Implementation Plan (SIP) Post-1999 Rate of Progress (ROP) Plan, the 1990 Base Year Inventory, and the Motor Vehicle Emissions Budgets (MVEB) established by the ROP Plan, for the Houston Galveston (HGA) ozone nonattainment Area submitted November 16, 2004. The intended effect of this action is to approve revisions submitted by the State of Texas to satisfy the reasonable further progress requirements for 1-hour ozone nonattainment areas classified as severe and demonstrate further progress in reducing ozone precursors. We are approving these revisions in accordance with the requirements of the Federal Clean Air Act (the Act).

**DATES:** This rule is effective on April 15, 2005, without further notice, unless EPA receives relevant adverse comment by March 16, 2005. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0004, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*Agency Web Site:* <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

*U.S. EPA Region 6 "Contact Us" Web Site:* <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

*E-mail:* Mr. Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

*Fax:* Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

*Mail:* Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

*Hand or Courier Delivery:* Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0004. The EPA's policy is that all comments received will be included in the public file without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), [regulations.gov](http://regulations.gov), or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic

comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment: Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Guy Donaldson, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7242, [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### What Action Are We Taking?

We are approving revisions to the HGA area post-1999 ROP Plan for the 2000-2002, 2003-2005 and 2006-2007 time periods submitted in a letter dated November 16, 2004. The post-1999 ROP