

TABLE FOUR

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS WILLIAM P. LAWRENCE	DDG 110	1.86 meters.

■ 16. \* \* \*

Vessel	Number	Obstruction angle relative ship's headings
USS WILLIAM P. LAWRENCE	DDG 110	107.86 thru 112.50 [degrees].

\* \* \* \* \*

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS WILLIAM P. LAWRENCE	DDG 110	X	X	X	14.7

\* \* \* \* \*

Approved: October 7, 2010.  
**M. Robb Hyde,**  
*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).*  
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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2010-0228]

RIN 1625-AA09

**Drawbridge Operation Regulation; Arkansas Waterway, Little Rock, AR**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** Drawbridge operations for the Baring Cross Railroad Drawbridge across the Arkansas Waterway at Mile 119.6 at Little Rock, Arkansas. Vessel operators shall contact the remote drawbridge operator via microphone keying four times within five seconds on VHF-FM Channel 13 when requesting a draw opening. This keying will activate an indicator on the remote drawbridge operator's console and send an acknowledgement tone back to the vessel. The remote drawbridge operator will then establish verbal radio communications with the vessel and operate the drawspan as normal.  
**DATES:** This rule is effective November 29, 2010.  
**ADDRESSES:** Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0228 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0228 in the "Keyword"

box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Eric A. Washburn, Bridge Administrator, Coast Guard, telephone (314) 269-2378, e-mail [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION: Regulatory Information**

On June 2, 2010, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Arkansas Waterway, Little

Rock, AR in the **Federal Register** (75 FR 105). We received no comments on the proposed rule. No public meeting was requested, and none was held.

#### **Background and Purpose**

The Arkansas Waterway is a part of the McClellan-Kerr Arkansas River Navigation System. The System rises in the vicinity of Catoosa, Oklahoma, and embraces improved natural waterways and a canal to empty into the Mississippi River in southeast Arkansas. The Arkansas Waterway drawbridge operation regulations contained in 33 CFR 117.123(b), state that the draw of the Baring Cross Railroad Drawbridge, mile 119.6, at Little Rock, Arkansas, is maintained in the closed to navigation position and is remotely operated. Vessels requesting an opening shall establish contact by radio/telephone with the remote drawbridge operator on VHF-FM Channel 13 in Omaha, Nebraska. In order to better differentiate between vessel and rail traffic for the remote drawbridge operator, Union Pacific Railroad has requested this drawbridge be operated where vessels would key their VHF-FM radio microphone four times in five seconds and would receive an acknowledgement tone from the remote drawbridge operator. The keying-in will initiate an indicator on the remote drawbridge operator's console and the operator will then establish normal verbal radio communications with the vessel.

The Coast Guard has determined this regulation change will improve communications between the remote drawbridge operator and vessel operators, reducing drawspan opening delays experienced previously from missed calls under the prior regulatory guidance.

#### **Discussion of Comments and Changes**

There were no comments to the proposed regulatory change.

#### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### **Regulatory Planning and Review**

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.

We expect the economic impact of this rule on commercial traffic operating on the Arkansas Waterway to be so minimal that a full Regulatory Evaluation is unnecessary. The operating procedures affected by this change will be for the benefit of vessels transiting the bridge, reduced drawspan opening delays under the new regulatory guidance are anticipated.

#### **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.

#### **Assistance for Small Entities**

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

#### **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 (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.

#### **Taking of Private Property**

This rule will not cause 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 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 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 Department of Homeland Security Management Directive 023-01 and 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 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 is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

**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. Revise § 117.123(b)(1) and (2) to read as follows:

**§ 117.123 Arkansas Waterway.**

\* \* \* \* \*

(b) \* \* \*

(1) *Normal flow procedures.* Any vessel which requires an opening of the draw of this bridge shall establish contact by radiotelephone with the remote drawbridge operator on VHF-FM Channel 13 in Omaha, Nebraska. To establish contact, the vessel shall key the VHF-FM radio microphone four times in five seconds and listen for an acknowledgement tone. The remote drawbridge operator will then establish

normal verbal radio communication on VHF-FM Channel 13 and advise the vessel whether the requested span can be immediately opened and will maintain constant radio contact with the vessel until the requested span has opened and vessel passage has been completed. The bridge is equipped with a Photoelectric Boat Detection System to prevent the span from lowering if there is an obstruction under the span. If the drawbridge cannot be opened immediately, the remote drawbridge operator will notify the calling vessel and provide an estimated time for a drawspan opening.

(2) *High velocity flow procedures.* The area from mile 118.2 to mile 125.4 is a regulated navigation area as described in § 165.817. During periods of high velocity flow rate of 70,000 cubic feet per second or greater at the Murray Lock and Dam, mile 125.4, downbound vessels which require that the draw of this bridge be opened for unimpeded passage shall contact the remote drawbridge operator as described in paragraph (b)(1) of this section either before departing Murray Lock and Dam or before departing the mooring cells at mile 121.5 to ensure that the drawspan is opened well in advance of arrival at the bridge. The remote drawbridge operator shall immediately respond to the vessel's contact, ensure the drawspan is open for passage, and ensure that it remains in the open to navigation position until the downbound vessel has safely passed through. If it cannot be opened immediately for unimpeded passage in accordance with § 165.817, the remote drawbridge operator will notify the downbound vessel and provide an estimated time for a drawspan opening. Upbound vessels shall request openings in accordance with the normal flow procedures as set forth in paragraph (b)(1) of this section. The remote drawbridge operator shall keep these approaching vessels informed of the position of the drawspan at all times until safe passage is completed.

\* \* \* \* \*

Dated: October 15, 2010.

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

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2010-0973]

**Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), Point Pleasant Canal, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Route 88/Veterans Memorial Bridge across Point Pleasant Canal, at NJICW mile 3.0, in Point Pleasant, NJ. This closure is necessary to facilitate extensive mechanical rehabilitation and to maintain the bridge's operational integrity.

**DATES:** This deviation is effective from 7 a.m. on December 15, 2010 through 11:59 p.m. on March 15, 2011.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2010-0973 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0973 in the "Keyword" box and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District; telephone 757-398-6222, e-mail [Waverly.W.Gregory@uscg.mil](mailto:Waverly.W.Gregory@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The New Jersey Department of Transportation (NJDOT) owns and operates the vertical-lift span of the Route 88/Veterans Memorial Bridge across Point Pleasant Canal along the NJICW, in Point Pleasant, NJ. The bridge has a vertical clearance in the closed position to vessels of 10 feet, above mean high water. The current operating regulations are outlined at 33 CFR 117.5, which require the bridge to open is given.