

88.292(a), 89.52(c), and 90.102(a) result in the elimination of the manganese limits for Group B discharges which include surface runoff and discharges during precipitation events less than or equal to the 10 year/24 hour storm event. The addition of 87.102(e); 88.92(e); 88.187(e); 88.292(e); and 90.102(e) establish three specific categories of discharges that can be adequately treated using passive treatment technologies. They are: where pH is always greater than 6.0 and alkalinity always exceeds acidity; where acidity is always less than 100mg/l, iron is always less than 10mg/l, manganese is always less than 18mg/l, and flow is always less than 3 gpm; and where net acidity is always less than 300mg/l. The regulations do not limit applicability to only these three categories. The proposed regulations also establish construction and performance criteria for the treatment systems.

#### *Supporting Documentation:*

Pennsylvania also provided references to OSM's regulations, excerpts from 40 CFR part 434, references to past correspondence with EPA on this issue, and a 1994 Pennsylvania report entitled "Best Professional Judgment Analysis for the Treatment of Post-Mining Discharges from Surface Mining Activities."

### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Pennsylvania program.

#### *Electronic or Written Comments*

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Tribal or Federal laws or regulations, technical literature, or other relevant publications. We cannot ensure that comments received after the close of the comment period (*see DATES*) or sent to an address other than those listed above (*see ADDRESSES*) will be included in the docket for this rulemaking and considered.

#### *Public Availability of Comments*

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments.

#### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., local time April 11, 2011. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### *Public Meeting*

If there is only limited interest in participating in a public hearing, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the submission, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

### IV. Procedural Determinations

#### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

#### *Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

#### **List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 31, 2011.

**Thomas D. Shope,**  
*Regional Director, Appalachian Region.*  
[FR Doc. 2011-7107 Filed 3-24-11; 8:45 am]

**BILLING CODE 4310-05-P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2010-1117]

RIN 1625-AA09

#### **Drawbridge Operation Regulation; Raritan River, Arthur Kill and Their Tributaries, Staten Island, NY and Elizabeth, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the drawbridge operation regulations governing the operation of the Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill between Staten Island, New York and Elizabeth, New Jersey. This proposed rule would provide relief to the bridge owner from crewing their bridge by allowing the bridge to be operated from a remote location while continuing to meet the present and future needs of navigation.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 24, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG-

2010–1117 using any one of the following methods:

(1) *Federal Rulemaking Portal*: <http://www.regulations.gov>.

(2) *Fax*: 202–493–2251.

(3) *Mail*: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery*: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Mr. Gary Kassof, Bridge Program Manager, First Coast Guard District; telephone (212) 668–7165, e-mail [gary.kassof@uscg.mil](mailto:gary.kassof@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–1117), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at

the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rules” and insert “USCG–2010–1117” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### **Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2010–1117” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### **Privacy Act**

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

#### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we

determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### **Basis and Purpose**

The Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill, has a vertical clearance of 31 feet at mean high water, and 35 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.72.

Beginning in 2009, Consolidated Rail Corporation (Conrail) conducted a year of successful remote operation tests of the AK Railroad Bridge without any objections from marine users. A draw operator was on scene at all times to ensure compliance with drawbridge operating regulations cited above. In September 2010, Conrail formally requested that the drawbridge operating regulation be revised to permit remote operation of the Arthur Kill AK Railroad Bridge.

Conrail, on October 20, 2010 and at the request of the Coast Guard, presented its proposal to remotely operate the bridge to the New York Harbor Operation Committee. Discussions between Conrail, the Coast Guard, and the New York Harbor Operations Committee ensued with no objections to the remote operation raised by the committee members.

#### **Discussion of Proposed Rule**

The Arthur Kill Railroad Bridge would operate the same way as stated in the existing regulation, except that it will be operated remotely from the Lehigh Valley drawbridge at mile 4.3 across Newark Bay or at the bridge locally.

The revised regulation would require a sufficient number of closed circuit TV cameras, approved by the Coast Guard, to be maintained at the bridge to enable the remotely located bridge tender to have a full view of the waterway and all vessel traffic.

In addition, VHF–FM radiotelephone channels 13 and 16 would be monitored to facilitate vessel to bridge communication from both the remote and the local control location.

Directional microphones and signal horns would also be installed at the bridge to receive and deliver signals to vessels.

In the event that the remote operation equipment fails to operate in any way, a bridge tender will be dispatched to the bridge to arrive no more than 45 minutes following the equipment failure.

## Regulatory Analyses

We developed this proposed 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 proposed 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. This conclusion is based upon the fact that the bridge will continue to operate according to the existing regulations except that it could be controlled from either a remote location or locally.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This action will not have a significant economic impact on a substantial number of small entities for the following reasons. The bridge will continue to operate according to existing regulations except that it will be controlled from either a remote location or locally.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Mr. Joe Arca, First Coast Guard District, Bridge Program Manager, at [joe.m.arca@uscg.mil](mailto:joe.m.arca@uscg.mil) or 212–668–7165. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### Collection of Information

This proposed rule would call 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 proposed 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 proposed 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 proposed rule would 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 preliminary 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 because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### 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; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.702 to read as follows:

##### § 117.702 Arthur Kill

(a) The draw of the Arthur Kill (AK) Railroad Bridge shall be maintained in the full open position for navigation at all times, except during periods when it is closed for the passage of rail traffic.

(b) The bridge owner/operator shall maintain a dedicated telephone hot line for vessel operators to call the bridge in advance to coordinate anticipated bridge closures. The telephone hot line number shall be posted on signs at the bridge clearly visible from both the up and downstream sides of the bridge.

(c) Tide constrained deep draft vessels shall notify the bridge operator, daily, of their expected times of vessel transits through the bridge, by calling the designated telephone hot line.

(d) The bridge shall not be closed for the passage of rail traffic during any predicted high tide period if a tide constrained deep draft vessel has provided the bridge operator with an advance notice of their intent to transit through the bridge. For the purposes of this regulation, the predicted high tide period shall be considered to be from two hours before each predicted high tide to a half-hour after each predicted high tide taken at the Battery, New York.

(e) The bridge operator shall issue a manual broadcast notice to mariners of the intent to close the bridge for a period of up to thirty minutes for the passage of rail traffic, on VHF–FM channels 13 and 16 (minimum range of 15 miles) 90 minutes before and again at 75 minutes before each bridge closure.

(f) Beginning at 60 minutes prior to each bridge closure, automated or manual broadcast notice to mariners must be repeated at 15 minute intervals and again at 10 and 5 minutes prior to each bridge closure and once again as the bridge begins to close, at which point the appropriate sound signal will be given.

(g) Two 15 minute bridge closures may be provided each day for the passage of multiple rail traffic movements across the bridge. Each 15 minute bridge closure shall be separated by at least a 30 minute period when the bridge is returned to and remains in the full open position. Notification of the two 15 minute closures shall follow the same procedures outlined in paragraphs (e) and (f) above.

(h) A vessel operator may request up to a 30 minute delay for any bridge closure in order to allow vessel traffic to meet tide or current requirements; however, the request to delay the bridge closure must be made within 30 minutes following the initial broadcast for the bridge closure. Requests received after the initial 30 minute broadcast will not be granted.

(i) In the event of a bridge operational failure, the bridge operator shall immediately notify the Coast Guard Captain of the Port New York. The bridge owner/operator must provide and dispatch a bridge repair crew to be on scene at the bridge no later than 45 minutes after the bridge fails to operate. A repair crew must remain on scene during the operational failure until the bridge has been fully restored to normal operations or until the bridge is raised and locked in the fully open position.

(j) When the bridge is not tended locally it must be operated from a remote location. A sufficient number of closed circuit TV cameras, approved by the Coast Guard, shall be operated and maintained at the bridge site to enable the remotely located bridge tender to have full view of both river traffic and the bridge.

(k) VHF–FM channels 13 and 16 shall be maintained and monitored to facilitate communication in both the remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels.

(l) Whenever the remote control system equipment is disabled or fails to operate for any reason, the bridge operator shall immediately notify the Captain of the Port New York. The bridge shall be physically tended and operated by local control as soon as possible, but no more than 45 minutes after malfunction or disability of the remote system. Mechanical bypass and

override capability of the remote operation system shall be provided and maintained at all times.

Dated: March 10, 2011.

**Daniel A. Neptun,**  
Rear Admiral, U.S. Coast Guard, Commander,  
First Coast Guard District.

[FR Doc. 2011–7049 Filed 3–24–11; 8:45 am]

BILLING CODE 9110–04–P

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA–R04–OAR–2010–1036–201062; FRL–9286–5]

#### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Atlanta; Determination of Attainment for the 1997 8-Hour Ozone Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine that the Atlanta, Georgia nonattainment area has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS) based on quality assured, quality controlled monitoring data from 2008–2010. The Atlanta, Georgia 1997 8-hour ozone nonattainment area (hereafter referred to as the “Atlanta Area”) is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in Georgia. If this proposed determination is made final, the requirement for the State of Georgia to submit an attainment demonstration and associated reasonably available control measures (RACM) analysis, a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the 1997 8-hour ozone NAAQS for the Atlanta, Georgia 8-hour ozone nonattainment area, shall be suspended for as long as the Atlanta Area continues to meet the 1997 8-hour ozone NAAQS.

**DATES:** Written comments must be received on or before April 25, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2010–1036 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.