

applied against expenditures for the program in the same period as the other sums in the appropriation.

(g) *Administrative appeals and civil rights.* (1) Applicants who are denied certification or participants that are denied recertification shall be provided with a notice of ineligibility. The notice shall include information on the applicant's right to appeal the determination and instructions on doing so.

(2) Benefits shall not be provided while an appeal is pending when an applicant is denied benefits, a participant's certification has expired or a participant becomes categorically ineligible.

(3) A request for appeal shall be submitted in writing within 5 working days. If the decision is an adverse one it shall include notice to the applicant of his further appeal rights as reflected in paragraph (g)(4)(iii) of this section, and that he/she has 5 working days to effect any such appeal.

(4) Appeal reviews shall be conducted in the first instance by the CPA or team leader in charge of the local WIC Overseas office.

(i) Written notice of a decision shall be provided to the applicant within 5 working days.

(ii) If the appeal is upheld, retroactive benefits shall not be provided.

(iii) At an applicant's request a denied appeal may be forwarded to the regional program manager for review, who will provide a decision on the appeal within 5 working days.

(iv) If the regional program manager denies the appeal, there shall be no further right of appeal.

(5) Complaints about discriminatory treatment shall be handled in accordance with procedures established at each local WIC Overseas site.

(h) *Operations and Administration.* (1) Information collected about WIC Overseas applicants and participants shall be collected, maintained, and disclosed in accordance with applicable laws and regulations.

(2) Information and personnel security requirements shall be consistent with applicable laws and regulations.

Dated: June 27, 2003.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-03-002]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Shrewsbury River, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulations governing the operation of the Route 36 Bridge, mile 1.8, across The Shrewsbury River at Highlands, New Jersey. This final rule will synchronize the drawbridge opening schedules for the two moveable bridges across the Shrewsbury River during the boating season. This action is necessary to meet the present needs of navigation.

**DATES:** This rule is effective August 21, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket (CGD01-03-002) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110-3350, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joe Arca, Project Officer, First Coast Guard District, (212) 668-7165.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On February 5, 2003, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Shrewsbury River, New Jersey, in the **Federal Register** (68 FR 5858). We received one comment letter in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

##### Background and Purpose

The Route 36 Bridge, mile 1.8, across the Shrewsbury River at Highlands, New Jersey, has a vertical clearance of 35 feet at mean high water and 39 feet at mean low water.

The existing regulations listed at 33 CFR 117.755(a), require the Route 36 Bridge to open on signal; except that, from May 15 through October 15, 7 a.m. to 8 p.m., the draw need open only at quarter before the hour and quarter after the hour.

The Coast Guard received requests from mariners to change the drawbridge operation regulations that govern the Route 36 Bridge. Presently the two moveable bridges across the Shrewsbury River, the Route 36 Bridge, and the Monmouth County highway bridge, have staggered opening schedules during the boating season. The mariners have asked the Coast Guard to change the opening schedule for the Route 36 Bridge in order to synchronize the bridge opening times for the two moveable bridges during the boating season to help reduce vessel transit delays and enhance boating safety.

The second moveable bridge across the Shrewsbury River, the Monmouth County highway bridge, at mile 4.0, with a vertical clearance of 15 feet at mean high water and 17 feet at mean low water. The existing regulations listed at 33 CFR 117.755(b), require the bridge to open on signal; except that, from May 15 through September 30, on Saturdays, Sundays, and holidays, from 9 a.m. to 7 p.m., the draw need open only on the hour and half hour.

This final rule will synchronize the bridge opening times at the two bridges by requiring the Route 36 Bridge to open on signal from May 15 through October 15, 7 a.m. to 8 p.m., on the hour and half hour only.

##### Discussion of Comments and Changes

The Coast Guard received one comment letter opposed to the proposed rule change. That comment opposed having synchronous bridge openings at the Route 36 Bridge, mile 1.8, and the Monmouth County highway bridge, at mile 4.0, across the Shrewsbury River in New Jersey.

The objection stated that powerboats would be required to wait for bridge openings creating an unsafe condition on the waterway which would result in hardship for marine businesses in the area.

The Route 36 Bridge, with a vertical clearance of 35 ft above mean high water, passes the vast majority of power vessels without requiring an opening. This rule change, to synchronize both bridges operating schedules, was requested to assist the lower-powered sailboats that cannot transit between the bridges quickly enough to make consecutive bridge openings. The ensuing 20-25 minute wait for sailboats in swift river currents creates a hazardous navigational condition.

The potential for an adverse effect on marine businesses is not supported by the fact that only a few power vessels may have to wait up to 20 minutes for bridge openings.

As a result of the above information the Coast Guard believes this final rule is reasonable and will meet the reasonable needs of navigation; therefore, no changes have been 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).

This conclusion is based on the fact that the synchronization of the opening times for the moveable bridges across the Shrewsbury River will better meet the present needs of navigation.

### 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 the synchronization of the opening times for the moveable bridges across the Shrewsbury River will better meet the present needs of navigation.

### 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. 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 set out 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; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Section 117.755 is amended by revising paragraph (a) to read as follows:

#### § 117.755 Shrewsbury River.

(a) The Route 36 Bridge, mile 1.8, at Highlands, New Jersey, shall open on signal; except that, from May 15 through October 15, 7 a.m. to 8 p.m., the draw need open on the hour and half hour only. The owners of the bridge shall provide and keep in good legible condition, two clearance gauges, with figures not less than eight inches high, designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

\* \* \* \* \*

Dated: July 1, 2003.

**Vivien S. Crea,**

*Rear Admiral, Coast Guard, Commander,  
First Coast Guard District.*

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