

income taken into account as investment income under these elections are not eligible to be taxed at the capital gains rates. An election may be made for net capital gain recognized by noncorporate taxpayers during any taxable year beginning after December 31, 1992. An election may be made for qualified dividend income received by noncorporate taxpayers during any taxable year beginning after December 31, 2002, but before January 1, 2009.

(b) *Time and manner for making the elections.* The elections for net capital gain and qualified dividend income must be made on or before the due date (including extensions) of the income tax return for the taxable year in which the net capital gain is recognized or the qualified dividend income is received. The elections are to be made on Form 4952, "Investment Interest Expense Deduction," in accordance with the form and its instructions.

(c) *Revocability of elections.* The elections described in this section are revocable with the consent of the Commissioner.

(d) *Effective date.* The rules set forth in this section regarding the net capital gain election apply beginning December 12, 1996. The rules set forth in this section regarding the qualified dividend income election apply to any taxable year beginning after December 31, 2002, but before January 1, 2009.

■ **Par. 3.** Section 1.163–1T is removed.

**Mark E. Mathews,**  
Deputy Commissioner for Services and Enforcement.

Approved: March 10, 2005.

**Eric Solomon,**

Acting Assistant Secretary of the Treasury.  
[FR Doc. 05–5433 Filed 3–17–05; 8:45 am]  
**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01–04–127]

RIN 1625-AA09

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has changed the drawbridge operation regulations that govern the operation of the Route 36 Bridge, mile 1.8, across the Shrewsbury River at Highlands, New

Jersey. This change to the drawbridge operation regulations will allow the bridge owner to require an advance notice for bridge openings during periods the bridge has received few requests to open from 11 p.m. to 7 a.m., each day, and during the winter months from December 1 through March 31. This action is expected to help relieve the bridge owner from the burden of crewing the bridge at all times while continuing to meet the present needs of navigation.

**DATES:** This rule is effective April 18, 2005.

**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 docket (CGD01–04–127) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668–7165.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On December 13, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations: Shrewsbury River, New Jersey, in the **Federal Register** (69 FR 72138). We received no comments 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, 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 on the hour and half hour.

The bridge owner, New Jersey Department of Transportation (NJDOT), requested a change to the drawbridge operation regulations that govern the Route 36 Bridge to allow the bridge owner to require a 4-hour advance notice for bridge openings from 11 p.m. to 7 a.m., each day, and all day from December 1 through March 31. The bridge rarely opens after 11 p.m. and during the winter months. A summary of the regulations and the advance notice contact number shall be posted at the bridge.

This final rule relieves the bridge owner from the burden of crewing the bridge during time periods when the bridge has had few requests to open.

#### Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, 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 bridge will continue to open for vessel traffic at all times after the advance notice to open is given.

#### 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 bridge will continue to open for vessel traffic at all times after the advance notice to open is given.

#### 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.

No small entities requested Coast Guard assistance and none was given.

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).

#### 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 effect 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. 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 final 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. It has been determined

that this final rule does not significantly impact the environment.

#### 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; 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. 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:

(1) From 11 p.m. to 7 a.m. the draw shall open on signal after at least a 4-hour advance notice is given by calling the number posted at the bridge.

(2) From May 15 through October 15, 7 a.m. to 8 p.m., the draw need only open on the hour and half hour.

(3) From December 1 through March 31, the draw shall open on signal at all times after at least a 4-hour advance notice is given by calling the number posted at the bridge.

(4) 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: March 9, 2005.

**John L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 05-5338 Filed 3-17-05; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 174

**[USCG-2003-15708]**

**RIN 1625-AA75**

##### Terms Imposed by States on Numbering of Vessels

**AGENCY:** Coast Guard, DHS.