

taxes when public utility property becomes deregulated public utility property.

(4) *Effective dates*—(i) *In general.* This paragraph (k) applies to public utility property that becomes deregulated public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

(ii) *Application of regulation project REG-104385-01 to pre-effective date reductions in cost of service.* A reduction in the taxpayer's cost of service will be treated as ratable if it is consistent with the proposed rules in regulation project REG-104385-01 (2003-1 C.B. 634) and occurs during the period March 5, 2003, through the earlier of the last date on which the utility's rates are determined under the rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

**Par. 3.** Section 1.168(i)-3 is added to read as follows:

**§ 1.168(i)-(3) Treatment of excess deferred income tax reserve upon disposition of deregulated public utility property.**

(a) *Scope.* This section provides rules for the application of section 203(e) of the Tax Reform Act of 1986, Public Law 99-514 (100 Stat. 2146) with respect to public utility property (within the meaning of section 168(i)(10)) that ceases, whether by disposition, deregulation, or otherwise, to be public utility property (deregulated public utility property).

(b) *Amount of reduction.* If public utility property of a taxpayer becomes deregulated public utility property to which this section applies, the reduction in the taxpayer's excess tax reserve permitted under section 203(e) of the Tax Reform Act of 1986 is equal to the amount by which the reserve could be reduced under that provision if all such property had remained public utility property of the taxpayer and the taxpayer had continued use of its normalization method of accounting with respect to such property.

(c) *Cross reference.* See § 1.46-6(k) for rules relating to the treatment of accumulated deferred investment tax credits when utilities dispose of regulated public utility property.

(d) *Effective dates*—(1) *In general.* This section applies to public utility property that becomes deregulated public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

(2) *Application of regulation project REG-104385-01 to pre-effective date reductions of excess deferred income*

*tax reserve.* A reduction in the taxpayer's excess deferred income tax reserve will be treated as ratable if it is consistent with the proposed rules in regulation project REG-104385-01 (2003-1 C.B. 634) and occurs during the period March 5, 2003, through the earlier of the last date on which the utility's rates are determined under the rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD05-05-131]

RIN 1625-AA09

**Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, Manasquan River, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulations that govern the operation of the Route 35 Bridge, at New Jersey Intracoastal Waterway (NJICW) mile 1.1, across the Manasquan River, at Brielle, New Jersey. The proposal will allow the drawbridge to provide vessel openings upon four hours advance notice from December 1 to March 31. This proposal will reduce draw tender services during the non-peak boating season while still providing for the reasonable needs of navigation.

**DATES:** Comments and related material must reach the Coast Guard on or before February 6, 2006.

**ADDRESSES:** You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Fifth Coast Guard District between

8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Bill. H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6422.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-05-131), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8" by 11 inches, suitable for copying. If you would like a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one 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**.

**Background and Purpose**

The New Jersey Department of Transportation (NJDOT) owns and operates the Route 35 Bridge, at NJICW mile 1.1, across the Manasquan River, at Brielle, New Jersey. The current operating regulations set out in 33 CFR 117.733(b) requires the drawbridge to open on signal except as follows: from May 15 through September 30, on Saturdays, Sundays and Federal holidays, from 8 a.m. to 10 p.m. the draw need only open 15 minutes before the hour and 15 minutes after the hour; on Mondays to Thursdays from 4 p.m. to 7 p.m., and on Fridays, except Federal holidays from 12 p.m. to 7 p.m. the draw need only open 15 minutes before the hour and 15 minutes after hour; and year-round from 11 p.m. to 8 a.m., the draw need only open if at least four hours notice is given.

The Route 35 Bridge, a bascule-type drawbridge, has a vertical clearance in the closed position to vessels of 30 feet, at mean high water.

The NJDOT has requested a change to the existing regulations for the Route 35

Bridge. This proposal would reduce draw tender services during the non-peak boating season by requiring openings of the bridge if at least four hours advance notice is given from December 1 to March 31.

We reviewed the yearly drawbridge logs provided by NJDOT for the years 2000 to 2004, which revealed that the bridge opened for vessels 970, 835, 811, 716 and 685 times, respectively. NJDOT contends that the vessel traffic through the bridge is minimal during the winter months. During the period from December 1 to March 31, from 7 a.m. to 11 p.m., the bridge data for the years 2000 to 2004 shows that the bridge opened 51, 61, 49, 48 and 47 times, respectively. The data shows a significant decrease in the number of bridge openings during the non-peak boating season.

Based on the data provided, the proposal will have minimal impact on vessel traffic.

#### Discussion of Proposed Rule

The Coast Guard proposes to amend the regulations governing the Route 35 Bridge over the Manasquan River, at NJICW mile 1.1, at Brielle, New Jersey, set out in 33 CFR 117.733(b) by revising paragraph(b)(2).

As amended, paragraph (b)(2) would read "Year-round from 11 p.m. to 8 a.m., and at all times from December 1 to March 31, the draw need only open if at least four hours notice is given."

#### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the historical data, and due to the reduced number of vessels requiring transit through the bridge during the proposed period.

#### 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. The non-peak boating season operating rules proposed for the bridge are designed to minimize the number of small entities affected.

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 Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. The Coast Guard will not retaliate against small entities that question or complain about this 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 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 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 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 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 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 proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

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; 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. In § 117.733, paragraph (b)(2) is revised to read as follows:

#### § 117.733 New Jersey Intracoastal Waterway.

\* \* \* \* \*

(b)(2) Year-round from 11 p.m. to 8 a.m., and at all times from December 1

to March 31, the draw need only open if at least four hours notice is given.

\* \* \* \* \*

Dated: December 5, 2005.

**Larry L. Hereth,**

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

[FR Doc. E5–7632 Filed 12–20–05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07–05–158]

RIN 1625–AA09

#### Drawbridge Operation Regulations; Stickney Point (SR 72) Bridge, Gulf Intracoastal Waterway Mile 68.6, Gulf Intracoastal Waterway, Sarasota County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the operating schedule of the Stickney Point (SR 72) bridge across the Gulf Intracoastal Waterway, mile 68.6 in Sarasota County, Florida. This proposed rule would require the drawbridge to open on a 30-minute schedule from 6 a.m. until 10 p.m., Monday through Friday except Federal holidays. This proposed action may improve the movement of vehicular traffic while not unreasonably interfering with the movement of vessel traffic.

**DATES:** Comments and related material must reach the Coast Guard on or before February 21, 2006.

**ADDRESSES:** You may mail comments and related material to Commander (dpb), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131, who maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and are available for inspection or copying at the Seventh Coast Guard District Bridge Branch, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

**SUPPLEMENTARY INFORMATION:**

## Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07–05–158], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

## Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Bridge Branch at the address under **ADDRESSES** explaining why one 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**.

## Background and Purpose

The current regulations governing the Stickney Point (SR 72) bridge, mile 68.6, at Sarasota County in 33 CFR 117.5 requires the drawbridge to open on signal.

On September 29, 2005, Sarasota County officials requested the Coast Guard review the operation of the Stickney Point bridge because they contended the regulation is not meeting the needs of vehicle traffic.

## Discussion of Proposed Rule

This proposed rule would require the Stickney Point (SR 72) bridge, mile 68.6, at Sarasota County to open on the hour and half-hour, from 6 a.m. to 10 p.m., Monday through Friday, except Federal holidays. This proposed schedule will allow local vehicular traffic to plan for drawbridge openings while providing for the reasonable needs of navigation. In order to record this change in the Code of Federal Regulations, the current regulation governing the Siesta Drive bridge at 33 CFR 117.287(b–1) shall be moved to 33 CFR 117.287(c) so that the regulation governing the Stickney Point bridge can be recorded at 33 CFR 117.287(b–1).

## Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and