

the bridge while in the closed-to-navigation position may continue to do so at any time. Vessels unable to transit the bridge in the closed-to-navigation position can take alternate routes to reach either side of the closed bridge.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 8, 2006.

**R.C. Lorigan,**

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

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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:** Final Rule.

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

**DATES:** This rule is effective December 21, 2006.

**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 CGD05-05-131 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

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

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On December 21, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; New Jersey Intracoastal Waterway; Manasquan River, NJ" in the **Federal Register** (70 FR 75765). We received no comments on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

The New Jersey Department of Transportation (NJDOT) owns and operates the Route 35 Bridge, at NJICW mile 1.1, across 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 final rule will 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, 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, this change will have minimal impact on vessel traffic.

##### Discussion of Comments and Changes

The Coast Guard received no comments on the NPRM, and no changes were made.

##### Discussion of Rule

This final rule amends 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).

An amended paragraph (b)(2) will 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 final 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 final 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 on the fact that this change supports minimal impact due to the reduced number of vessels requiring transit through the bridge.

##### 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.

For the reasons cited in the section on economic effects above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would 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), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

No assistance was requested from any small entity.

### 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 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 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 rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminates 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 Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide 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 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 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. 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: November 7, 2006.

**L.L. Hereth,**

*Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.*

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05–06–109]

RIN 1625-AA00

#### Safety Zone; Potomac River, Alexandria Channel, DC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone covering certain waters of the Potomac River within a 500-foot radius of an explosives demolition site at the Virginia approach of the old Woodrow Wilson Memorial Bridge, located near Alexandria, Virginia, in position latitude 38°47'36" N, longitude 077°02'19" W. This safety zone is necessary to provide for the safety of life and property during the fracturing of the west counterweight box by the use of explosives. This safety zone is intended to restrict maritime traffic in order to