

including any territory or possession of the United States, may obtain consent to disclose the taxpayer's SSN to a tax return preparer located outside of the United States or any territory or possession of the United States only if the tax return preparer discloses the SSN through the use of an adequate protection safeguard as described in guidance published in the Internal Revenue Bulletin and verifies the maintenance of the adequate data protection safeguards in the request for the taxpayer's consent pursuant to the specifications described in guidance published in the Internal Revenue Bulletin.

The rules adopted in the final regulations are substantially identical to those proposed in the notice of proposed rulemaking with the exception that § 301.7216-3T(d), which set forth the effective date for the rules contained in the temporary regulations, was removed and not adopted in the final regulations because the identical effective date is currently set forth in § 301.7216-3(d). In addition, minor and non-substantive edits were made to provide grammatical consistency and clarity throughout the regulations. Additional guidance regarding the adequate data protection safeguard set forth in the regulations may be found in Revenue Procedure 2008-35, 2008-29 I.R.B. 132. See § 601.601(d)(2)(ii)(b).

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Drafting Information

The principal author of these regulations is Molly K. Donnelly, Office of the Associate Chief Counsel (Procedure and Administration).

### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes,

Penalties, Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 301.7216-3 is amended by revising paragraph (b)(4) to read as follows:

#### § 301.7216-3 Disclosure or use permitted only with the taxpayer's consent.

\* \* \* \* \*

(b) \* \* \*

(4) *No consent to the disclosure of a taxpayer's social security number to a return preparer outside of the United States with respect to a taxpayer filing a return in the Form 1040 Series—(i) In general.* Except as provided in paragraph (b)(4)(ii) of this section, a tax return preparer located within the United States, including any territory or possession of the United States, may not obtain consent to disclose the taxpayer's social security number (SSN) with respect to a taxpayer filing a return in the Form 1040 Series, for example, Form 1040, Form 1040NR, Form 1040A, or Form 1040EZ, to a tax return preparer located outside of the United States or any territory or possession of the United States. Thus, if a tax return preparer located within the United States (including any territory or possession of the United States) obtains consent from an individual taxpayer to disclose tax return information to another tax return preparer located outside of the United States, as provided under §§ 301.7216-2(c) and 301.7216-2(d), the tax return preparer located in the United States may not disclose the taxpayer's SSN, and the tax return preparer must redact or otherwise mask the taxpayer's SSN before the tax return information is disclosed outside of the United States. If a tax return preparer located within the United States initially receives or obtains a taxpayer's SSN from another tax return preparer located outside of the United States, however, the tax return preparer within the United States may, without consent, retransmit the taxpayer's SSN to the tax return preparer located outside the United States that initially provided the SSN to the tax return preparer located within the United States. For purposes of this section, a tax return preparer located

outside of the United States does not include a tax return preparer who is continuously and regularly employed in the United States or any territory or possession of the United States and who is in a temporary travel status outside of the United States.

(ii) *Exception.* A tax return preparer located within the United States, including any territory or possession of the United States, may obtain consent to disclose the taxpayer's SSN to a tax return preparer located outside of the United States or any territory or possession of the United States only if the tax return preparer within the United States discloses the SSN to a tax return preparer outside of the United States through the use of an adequate data protection safeguard as defined by the Secretary in guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter) and verifies the maintenance of the adequate data protection safeguards in the request for the taxpayer's consent pursuant to the specifications described by the Secretary in guidance published in the Internal Revenue Bulletin.

\* \* \* \* \*

#### § 301.7216-3T [Removed]

■ **Par. 3.** Section 301.7216-3T is removed.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 10, 2008.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E8-29770 Filed 12-15-08; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2008-0100]

RIN 1625-AA09

### Drawbridge Operation Regulations; Wabash River; Activity Identifier; Permanent Change to Operating Schedule

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard moves that the procedures for Operation of Drawbridges across the Wabash River be revised to reflect the needs of navigation. There were no comments or

related materials received from the public for the Notice of Final Rulemaking docket number USCG–2008–0100 that preceded this Final Rule.

**DATES:** This rule is effective January 15, 2009.

**ADDRESSES:** Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0100 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, Suite 2.107F, St. Louis, MO 63103–2832 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this final rule, call Mr. Roger Wiebusch, Bridge Administrator, (314) 269–2378. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

### Regulatory Information

On May 5, 2008, we published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulation; Wabash River, IL; Permanent Change to Operating Schedule” in the *Federal Register* (Vol. 73, No. 87). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

### Background and Purpose

The Wabash River is a 475 mile long river in the eastern United States that flows generally southwest from Ohio, through Indiana, to Kentucky. The System rises in the vicinity of St. Henry, Ohio and flows across northern Indiana to Illinois where it forms the southern Illinois-Indiana border before draining into the Ohio River. The Wabash River flows into the Ohio River near Uniontown, Kentucky. The Wabash River drawbridge operation regulations, contained in 33 CFR 117.397, state that all drawbridges shall open on signal if given 72 hours advance notice. The Coast Guard has determined that this regulation is no longer necessary due to the lack of navigation on the river. This

action was coordinated with the local marine industry and no objections or concerns were raised.

### Discussion of Changes

The changes to 33 CFR 117.397 will reflect the current needs of navigation on the Wabash River. The last request for opening of a drawspan on the Wabash River was in 1991. The U.S. Army Corps of Engineers does not maintain any project depth or navigable channel on the river. Commercial use of the waterway is only possible during periods of high water. During these periods “snag and debris removal” operations are carried out by small commercial vessels that can safely pass beneath all closed drawspans on the waterway.

### Regulatory Analyses

We developed this 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 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The drawbridges of the Wabash River do not presently open for the passage of vessels due to the lack of navigation on the river. The last recorded opening of a Wabash River drawspan was in 1991. Consultation with bridge owners indicated that currently no bridge on the Wabash River has a bridge tender position assigned to it. Therefore, no jobs will be lost, nor will any forms of commerce be disrupted by the rule.

### 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.

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. This rule is neutral to all business entities since it only clarifies how the bridges are operated.

### 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 can better evaluate its effects on them and participate in the rulemaking process.

### 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 final 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 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

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 Department of Homeland Security Management Directive 5100.1 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 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.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

### List of Subjects in 33 CFR Part 117

Bridges.

■ 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; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.397 to read as follows:

#### § 117.397 Wabash River

The draws of the bridges across the Wabash River need not be opened for the passage of vessels.

Dated: November 24, 2008.

Joel R. Whitehead,

RADM, USCG.

[FR Doc. E8-29733 Filed 12-15-08; 8:45 am]

**BILLING CODE 4910-15-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 50

[EPA-HQ-OAR-2005-0159; FRL-8752-2]

RIN 2060-AP28

#### The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule To Support Initial Area Designations for the 2008 Ozone NAAQS

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** The EPA issued "The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule for Monitoring Data Used in Designations for the 2008 Ozone NAAQS" as a direct final rule on

October 6, 2008, 73 FR 58042. Because EPA received an adverse comment, we are withdrawing the direct final rule amendments to "The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule to Support Initial Area Designations for the 2008 Ozone NAAQS" published in the **Federal Register** on October 6, 2008 (73 FR 58042).

**DATES:** As of December 16, 2008, EPA withdraws the direct final rule amendments published on October 6, 2008 (73 FR 58042).

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2005-0159. All documents in the docket are listed on the <http://www.regulations.gov> Web Site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

**FOR FURTHER INFORMATION CONTACT:** Thomas E. Link, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: 919-541-5456; fax number: 919-541-0824; e-mail address: [link.tom@epa.gov](mailto:link.tom@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

*A. Does This Action Apply to Me?*

This action affects states and local air quality agencies and may also affect Tribal air quality agencies that have implemented air quality monitoring networks or have authority to implement air quality programs.

##### II. Background Information

The EPA issued "The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule