

1. On page 69192, column 1, footnote 10, the language “Section 401(k)(4)(B)(ii) provide that a cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government of political subdivision thereof, or any or agency or instrumentality thereof.” is removed and is replaced with the new language “Section 401(k)(4)(B)(ii) provides that a cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government of political subdivision thereof, or any agency or instrumentality thereof.”.

2. On page 69193, column 1, under the paragraph heading “*Judicial Determinations*”, second paragraph of the column, second line, the language “*Bingo & Casino*, held that the operating” is removed and is replaced with the new language “*Bingo & Casino*, held that operating”.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.*

[FR Doc. 2011–31463 Filed 12–7–11; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE INTERIOR

### Office of Natural Resources Revenue

#### 30 CFR Chapter XII

[Docket No. ONRR–2011–0007]

#### Establishment of the Indian Oil Valuation Negotiated Rulemaking Committee

**AGENCY:** Office of Natural Resources Revenue, Interior.

**ACTION:** Notice.

**SUMMARY:** On January 31, 2011, the Department published a notice of intent to establish an Indian Oil Valuation Negotiated Rulemaking Committee. In that notice, we requested interested parties to nominate representatives for membership on the Committee and addressed many of the requirements of Section 564 of the Negotiated Rulemaking Act. On August 22, 2011, the Department published a second notice of intent to establish an Indian Oil Valuation Negotiated Rulemaking Committee to address the remaining requirements of Section 564 of the Negotiated Rulemaking Act and to inquire if all interests were represented

by the proposed members. This notice establishes the Committee.

**FOR FURTHER INFORMATION CONTACT:** Mr. Karl Wunderlich, Office of Natural Resources Revenue (ONRR), *Telephone:* (303) 231–3663; *Fax:* (303) 231–3194, or *Email:* karl.wunderlich@onrr.gov.

**SUPPLEMENTARY INFORMATION:** In response to our second notice, we received three responses recommending three additional members to the Committee. In response, we have added the following three recommended members to the Committee: Patrick Flynn, employee of Resolute Energy Corporation, representative of Industry; Grinnell Day Chief, representative of the Blackfeet Nation; Alan Taradash, representative of the Jicarilla Apache Nation.

One additional comment was received in response to the second notice of intent offering broad objections to the composition of the Committee. In particular, the commenter felt the Committee did not represent all significant interests, did not represent global energy producer interests, included members from the oil industry with conflicts of interest, and should not have had inclusion from the Bureau of Indian Affairs (BIA).

While ONRR appreciates and encourages interest in the Indian Oil Valuation Negotiated Rulemaking Committee, at this time we find it unnecessary to reconstitute or make significant changes to the committee. On January 31, 2011, ONRR solicited nominees for membership to the Committee. On August 22, 2011, ONRR solicited additional nominees. This provided the commenter two opportunities to nominate a member that would represent the significant interests he felt were omitted. ONRR believes it has adequately met the intent of the Federal Advisory Committee Act (FACA) in soliciting membership and finding members with an appropriate balance of viewpoints. ONRR also notes that the Committee is being formed to address valuation of oil production from domestic Indian oil leases. Global energy interests are most likely unconcerned with the subject of this Committee and no nominations were offered to represent these interests. Likewise, the proposed representatives from industry were nominated by their constituents and have an undeniable stake in the rulemaking process. Any perceived conflict of interest on the part of industry’s nominations was not adequately described by the commenter. While the commenter noted that the oil industry members have conflicts of interest, this is expected of

“representative” members of a FACA committee. These members serve as representatives of outside entities or groups and their exclusive function is to represent the points of view of a particular industry or group (e.g. labor, agriculture, energy, environmental, tribal, or some other recognizable group of persons). In representing the interests of a specifically identifiable interest group, the opinions, information, and advice these members offer will reflect the biases of the particular group that the member represents on the Committee. ONRR firmly believes that the interests significantly affected by the rulemaking are represented by the members.

Finally, the Committee was formed within the terms of the FACA which provides for government oversight over FACA committees. In the case of this Committee, ONRR believes that BIA belongs on the Committee, because BIA issues leases and is the office of record maintaining surface and mineral ownership records on Indian Trust lands.

The Committee will meet at least quarterly with the first meeting planned for February 2012.

**Certification Statement:** I hereby certify that the Indian Oil Valuation Negotiated Rulemaking Committee is necessary, is in the public interest, and is established under the authority of the Secretary of the Interior.

Dated: December 1, 2011.

**Ken Salazar,**

*Secretary of the Interior.*

[FR Doc. 2011–31559 Filed 12–7–11; 8:45 am]

**BILLING CODE 4310–T2–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2011–0943]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Blackwater River, South Quay, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulations that govern the operation of the S189 Bridge over Blackwater River, mile 9.2, at South Quay, VA. The proposed rule would change the current regulation requiring a 24-hour advance notice and allow the bridge to remain in the closed position

for the passage of vessels. There have been no requests for openings in 11 years.

**DATES:** Comments and related material must reach the Coast Guard on or before February 6, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG–2011–0943 using any one of the following methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Fax:* (202) 493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Jim Rousseau, Coast Guard; telephone (757) 398–6557, email [James.L.Rousseau2@uscg.mil](mailto:James.L.Rousseau2@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0943), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be

considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rules” and insert “USCG–2011–0943” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### **Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2011–0943” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### **Privacy Act**

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

#### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain 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**.

#### **Basis and Purpose**

Virginia Department of Transportation has requested a change in the operation regulation of the S189 Bridge across Blackwater River, mile 9.2, at South Quay VA. There has been no request for openings since the year 2000. The only industrial waterway user to request openings left the area in 2000. Since 2008 up to the present day the average daily vehicular count is approximately 2,930. The Coast Guard proposes to allow the above mentioned bridge to remain in the closed position to navigation in accordance with 33 CFR 117.39.

The vertical clearance of the Swing Bridge is 14 feet above mean high tide in the closed position and unlimited in the open position. The current operating schedule for the bridge is set out in 33 CFR 117.999. The current 24 hour advance notice is no longer necessary because of the lack of openings.

#### **Discussion of Proposed Rule**

The Coast Guard proposes to revise 33 CFR 117.999 for the S189 Bridge over Blackwater River, mile 9.2, at South Quay, VA. The current regulation states: The draw of the S189 bridge, mile 9.2 at South Quay, shall open on signal if at least 24 hours notice is given. The new regulation would allow the bridge to not open for the passage of vessels. The change of the operating regulation would reflect the current use of the waterway and vessels with a mast height less than 14 feet can pass underneath the bridge in the closed position at anytime.

#### **Regulatory Analyses**

We developed this proposed 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 proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require

an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866. The Office of Management and Budget has not reviewed it under that Order. The proposed change is expected to have minimal impact on mariners due to no opening request for the past 11 years and no anticipated change to vessel traffic.

### 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. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit the bridge that cannot pass under the bridge in the closed position. This action will not have a significant economic impact on a substantial number of small entities for the following reasons. There have been no vessel requests for openings for the past 11 years. Vessels that can safely transit under the bridge may do so at any time.

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 Jim Rousseau, Bridge Management Specialist, Fifth Coast Guard District, (757) 398–6557 or email [James.L.Rousseau2@uscg](mailto:James.L.Rousseau2@uscg). The Coast Guard will not retaliate against small

entities that question or complain about this proposed 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 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not cause 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 Department of Homeland Security Management Directive 023–01, 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or

information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

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

2. Revise § 117.999, to read as follows:

##### § 117.999 Blackwater River

The draw of the S189 bridge, mile 9.2 at South Quay, need not be opened for the passage of vessels.

Dated: November 16, 2011.

**William D. Lee,**

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

[FR Doc. 2011–31455 Filed 12–7–11; 8:45 am]

BILLING CODE 9110–04–P

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2011–1013]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Saginaw River, Bay City, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the drawbridge opening schedule for the Lake State Railway Bridge at mile 3.10, the Independence Bridge at mile 3.88, the Central Michigan Railroad Bridge at mile 4.94, the Liberty Street Bridge at mile 4.99, the Veterans Memorial Bridge at mile 5.60, and the Lafayette Street Bridge at mile 6.78, all over the Saginaw River at Bay City, MI. The current regulation is confusing, outdated, and unnecessarily restrictive for both commercial and recreational vessels. The proposed regulation will simplify the regulatory language, increase access through the drawbridges for all vessels, and provide for the reasonable needs of all traffic.

**DATES:** Comments and related material must reach the Coast Guard on or before: January 9, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG–2011–1013 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* (202) 493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Mr. Lee Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone (216) 902–6085, email [Lee.D.Soule@uscg.mil](mailto:Lee.D.Soule@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–1013), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be

considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rules” and insert “USCG–2011–1013” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

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##### Public Meeting

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