

§ 4219.15 Determination of reallocation liability.

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(c) * * *

(1) *Initial allocable share.* Except as otherwise provided in rules adopted by the plan pursuant to paragraph (d) of this section, and in accordance with paragraph (c)(3) of this section, an employer's initial allocable share shall be equal to the product of the plan's unfunded vested benefits to be reallocated, multiplied by a fraction—

(i) The numerator of which is the yearly average of the employer's contribution base units during the three plan years preceding the employer's withdrawal; and

(ii) The denominator of which is the sum of the yearly averages calculated under paragraph (c)(1)(i) of this section for each employer liable for reallocation liability.

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(3) *Contribution base unit.* For purposes of paragraph (c)(1) of this section, a contribution base unit means a unit with respect to which an employer has an obligation to contribute, such as an hour worked or shift worked or a unit of production, under the applicable collective bargaining agreement (or other agreement pursuant to which the employer contributes) or with respect to which the employer would have an obligation to contribute if the contribution requirement with respect to the plan were greater than zero.

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Issued in Washington, DC, this 23 day of December 2008.

Charles E.F. Millard,

Director, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing publication of this final rule.

Judith R. Starr,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. E8-31015 Filed 12-29-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[USCG-2008-0697]

RIN 1625-AA09

Drawbridge Operation Regulation; Intracoastal Waterway (ICW), Barnegat Bay, Seaside Heights, NJ**AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations of the S37 Bridge, at ICW mile 14.1, across Barnegat Bay at Seaside Heights, NJ. The final rule will allow the drawbridge to operate on an advance notice basis during specific times of the year. This change will result in more efficient use of the bridge during months of infrequent transit.

DATES: This rule is effective January 29, 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-2008-0697 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 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District, at (757) 398-6587. 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:**Regulatory Information**

On August 22, 2008, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Intracoastal Waterway (ICW), Barnegat Bay, Seaside Heights,

NJ" in the *Federal Register* (73 FR 49622). We received no comments on the published NPRM. No public meeting was requested, and none was held.

Background and Purpose

The New Jersey Department of Transportation (NJDOT) is responsible for the operation of the S37 Bridge, at ICW mile 14.1, across Barnegat Bay at Seaside Heights, NJ. NJDOT requested advance notification for vessel openings from December 1 to March 31 from 8 a.m. to 11 p.m. for the drawbridge due to the infrequency of requests.

In the closed-to-navigation position, the S37 Bridge, at ICW mile 14.1, across Barnegat Bay at Seaside Heights, NJ, has a vertical clearance of 30 feet, above mean high water. The existing operating regulations for the drawbridge is set out in 33 CFR § 117.733(c), which require the bridge to open on signal except from December 1 through March 31 from 11 p.m. to 8 a.m., the draw need not be opened; from April 1 through November 30, from 11 p.m. to 8 a.m. the draw shall open if at least four hours notice is given; and from Memorial Day through Labor Day from 8 a.m. to 8 p.m., the draw need only open on the hour and half hour.

A review of the bridge logs for 2005 to 2007 supplied by NJDOT revealed from December 1 through March 31 between 8 a.m. to 11 p.m., the drawbridge opened for vessels a total of 5, 9, and 35 times per year, respectively. The year 2007 was an anomaly, based on unseasonably warm weather for the winter months.

Due to the infrequency of requests for vessel openings during the winter months, NJDOT requested to change the current operating regulations from December 1 through March 31 from 8 a.m. to 11 p.m. of every year by requiring the draw span to open on signal if at least four hours notice is given at all times from December 1 through March 31.

Discussion of Comments and Changes

The Coast Guard received no comments to the NPRM. Based on the information provided, we will implement a final rule with no changes to the NPRM.

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 reached this conclusion based on the fact that mariners can plan their trips in accordance with the scheduled bridge openings, to minimize delays and vessels that can pass under the bridge without a bridge opening may do so at all times.

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 will 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 (Public Law 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. 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). 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 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 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 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 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 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 M16475.1D and Department of Homeland Security Management Directive 5100.1 and, 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 § 117.733(c)(1) to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

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(c) * * *

(1) From December 1 through March 31, the draw need only open if at least four hours notice is given.

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Dated: December 9, 2008.

Fred M. Rosa, Jr.,

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

[FR Doc. E8–31016 Filed 12–29–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–1155]

Drawbridge Operation Regulations; Gowanus Canal, Brooklyn, NY, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Hamilton Avenue Bridge across the Gowanus Canal, mile 1.2, at Brooklyn, New York. Under this temporary deviation the bridge shall require a four-hour advance notice for bridge openings for three months to facilitate bridge maintenance. Vessels that can pass under the draw without a bridge opening may do so at all times.

DATES: This deviation is effective from January 16, 2009 through March 31, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–1155 and are available online at <http://www.regulations.gov>. They are 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 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: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Hamilton Avenue Bridge, across the Gowanus Canal, mile 1.2, at Brooklyn, New York, has a vertical clearance in the closed position of 19 feet at mean high water and 23 feet at mean low water. The Drawbridge Operation Regulations are listed at 33 CFR 117.5.

The waterway has seasonal recreational vessels, and commercial vessels of various sizes.

The owner of the bridge, New York City Department of Transportation, requested a temporary deviation to facilitate the training of bridge personnel, mechanical and electrical testing at the bridge.

Under this temporary deviation the Hamilton Avenue Bridge shall require at least a four-hour advance notice for bridge openings from January 16, 2009 through March 31, 2009. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 15, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–30880 Filed 12–29–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1120]

RIN 1625–AA00

Safety Zone; Flagler Museum New Year's Eve Celebration Fireworks Display, West Palm Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for

the Flagler Museum New Year's Eve Celebration fireworks display on the Intracoastal Waterway in West Palm Beach, Florida. This temporary safety zone will restrict vessels from interfering with the fireworks display. This regulation is necessary to provide for the safety of life on navigable waters of the United States and protect participants, spectators, and mariner traffic from potential hazards associated with the event.

DATES: This rule is effective from 11:55 p.m. on Wednesday, December 31, 2008 until 1 a.m. on Thursday, January 1, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–1120 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–1120 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying 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 Sector Miami, 100 MacArthur Causeway, Miami Beach, FL 33139 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call LT Paul Steiner, Coast Guard Sector, Miami, Florida at (305) 535–8724. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to ensure the safety of commercial and recreational vessels in the vicinity of the