

Donnell M. Rini-Swyers, (202) 622-4910; concerning submissions of comments, or to request a hearing, Richard Hurst, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under existing regulations, all cooperatives to which subchapter T applies (Subchapter T cooperatives) are required to make income tax returns. Except in the case of farmers' cooperatives, the regulations require that the return be made on Form 1120. In the case of farmers' cooperatives, the regulations require that the return be made on Form 990-C.

Most taxpayers required to make an income tax return on Form 1120 must file their return on or before the 15th day of the third month following the close of the taxpayer's taxable year (2½ month deadline). Some Subchapter T cooperatives that make their returns on Form 1120 are required to file by the 2½ month deadline, but others are not required to file their returns until the 15th day of the ninth month following the close of the taxpayer's taxable year (8½ month deadline). Because the Form 1120 does not distinguish between Subchapter T cooperatives that must file by the 2½ month deadline and those that must file by the 8½ month deadline, the IRS has difficulty determining which filing deadline applies and deciding whether to assert delinquency and failure to pay penalties in the case of returns filed after the 2½ month deadline.

##### Explanation of Provisions

The proposed regulations provide that all Subchapter T cooperatives must make their income tax returns on Form 1120-C, "U.S. Income Tax Return for Cooperative Associations," or such other form as may be designated by the Commissioner. The information that Subchapter T cooperatives will be required to provide on new Form 1120-C will assist taxpayers and the IRS in determining the appropriate filing deadline. Having that information will reduce the burden on taxpayers and will help the IRS avoid asserting penalties in inappropriate cases. Having all Subchapter T cooperatives make their income tax returns on Form 1120-C will also eliminate confusion over which form to file and will promote efficiency in addressing income tax issues common to Subchapter T cooperatives.

##### Effect on Other Documents

The following publication is obsolete as of [DATE THIS DOCUMENT IS

#### PUBLISHED AS A FINAL RULE IN FEDERAL REGISTER].

Announcement 84-26 (1984-11 I.R.B. 42).

#### Special Analyses

It has been determined that this notice of proposed rulemaking 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 these 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, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these regulations is Donnell M. Rini-Swyers, Office of Assistant Chief Counsel (Procedure & Administration).

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES, REPORTING AND RECORDKEEPING REQUIREMENTS

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

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

*Par. 2.* Section 1.6012-2 is amended by revising paragraph (f) to read as follows:

#### § 1.6012-2 Corporations required to make returns of income.

\* \* \* \* \*

(f) *Subchapter T cooperatives*—(1) *In general.* For taxable years ending on or after December 31, 2006, a cooperative organization described in section 1381 (including a farmers' cooperative) is exempt from tax under section 521) is required to make a return, whether or not it has taxable income and regardless of the amount of its gross income, on Form 1120-C, "U.S. Income Tax Return for Cooperative Associations," or such other form as may be designated by the Commissioner.

(2) *Farmers' cooperatives.* For taxable years ending before December 31, 2006, a farmers' cooperative organization described in section 521(b)(1) (including a farmers' cooperative that is not exempt from tax under section 521) is required to make a return on Form 990-C, "Farmers' Cooperative Association Income Tax Return."

\* \* \* \* \*

#### Mark E. Matthews,

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-05-061]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Hackensack River, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the drawbridge operating regulations governing the operation of the Willis Amtrak Portal Bridge, mile 5.0, across the Hackensack River at Little Snake Hill, New Jersey. This notice of proposed rulemaking would allow the bridge owner to expand the two time periods in the morning and in the afternoon, Monday through Friday, when the bridge may remain closed to vessel traffic.

**DATES:** Comments must reach the Coast Guard on or before August 29, 2005.

**ADDRESSES:** You may mail comments to Commander (obr), First Coast Guard

District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668-7165. The First Coast Guard District, Bridge Branch, 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 the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joe Arca, Project Officer, First Coast Guard District, (212) 668-7165.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-05-061), 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 if 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 First Coast Guard District, 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 Amtrak Portal Bridge has a vertical clearance of 23 feet at mean high water and 28 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.723(c).

The owner of the bridge, National Railroad Passenger Corporation (AMTRAK), requested a change to the drawbridge operation regulations that would expand the two time periods in

the morning and afternoon, Monday through Friday, when the bridge may remain closed to vessel traffic.

Rail traffic during the morning and afternoon commuter periods has increased. Bridge openings during the two commuter time periods have caused delays to rail traffic prompting the bridge owner to request the expansion of the bridge closure periods Monday through Friday.

The Coast Guard decided to conduct a test to help determine if the proposed drawbridge operation schedule changes would not cause undue delays to vessel traffic.

On February 26, 2004, the Coast Guard published a temporary 90-day deviation, with request for comment, (69 FR 8817) to test changes to the drawbridge operation regulations for the Amtrak Portal Bridge identical to those proposed in this notice of proposed rulemaking. That temporary deviation was in effect from March 1, 2004, through May 29, 2004. We received nine comment letters in response to the temporary deviation and request for comment. All the comment letters were in favor of making the tested drawbridge operation schedule a permanent rule change.

On November 23, 2004, we published a second 90-day deviation (69 FR 68079) to test the same drawbridge operation schedule as above during the winter months of the year. The second test deviation was in effect from December 13, 2004 through March 12, 2005. We received eight comment letters in response to our second test deviation. All eight letters were in favor of the proposed rule change.

The existing drawbridge operation regulations allow the bridge to remain closed to vessel traffic, Monday through Friday, from 7:20 a.m. to 9:20 a.m. and from 4:30 p.m. to 6:50 p.m., daily. Under this proposed rule the Amtrak Portal Bridge would not open for vessel traffic, Monday through Friday, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m., daily. Additional bridge openings would be provided for commercial vessels from 6 a.m. to 7:20 a.m., from 9:20 a.m. to 10 a.m., from 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., if at least a one-hour advance notice is given by calling the number posted at the bridge.

**Discussion of Proposed Rule**

This proposed rule would amend 33 CFR 117.723 by revising paragraph (c), which details the Amtrak Portal Bridge operation schedule. Under this proposed rule the Amtrak Portal Bridge may remain closed for vessel traffic,

Monday through Friday, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m.

Additional bridge openings would be provided for commercial vessels from 6 a.m. to 7:20 a.m., 9:20 a.m. to 10 a.m., 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., provided at least a one-hour advance notice is given by calling the number posted at the bridge.

**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 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.

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.

This conclusion is based on the fact that the expansion of the existing bridge closures were previously tested successfully with no objections from the marine facilities or operators that use this waterway.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 section 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 conclusion is based on the fact that the expansion of the existing bridge closures were previously tested successfully with no objections from the marine facilities or operators that use this waterway.

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 (Public Law 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 us in writing at, Commander (obr), First Coast Guard District, Bridge Branch, 408 Atlantic Avenue, Boston, MA 02110–3350. The telephone number is (617) 223–8364. 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 would 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 effect a taking of private property or otherwise have taking implications under E.O. 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 may 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 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 M16475.1D, 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 environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

For the reasons set out 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. Section 117.723 is amended by revising paragraph (c) to read as follows:

#### § 117.723 Hackensack River.

\* \* \* \* \*

(c) Except as provided in paragraph (a)(1) of this section, the draw of the Amtrak Portal Bridge, mile 5.0, at Little Snake Hill, need not open for the passage of vessel traffic Monday through Friday, except Federal holidays, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m. Additional bridge openings shall be provided for commercial vessels from 6 a.m. to 7:20 a.m.; 9:20 a.m. to 10 a.m.; 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., if at least a one-hour advance notice is given by calling the number posted at the bridge.

\* \* \* \* \*

Dated: July 12, 2005.

**David P. Pekoske,**

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

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