

**FOR FURTHER INFORMATION CONTACT:**

Hyun Sun Kim, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7632, e-mail [hkim@cpsc.gov](mailto:hkim@cpsc.gov).

**SUPPLEMENTARY INFORMATION:****A. Background**

The regulations promulgated under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1276, require cautionary labeling of hazardous substances. 16 CFR part 1500. Under 16 CFR 1500.83(a)(35), individual blasting caps are exempt from bearing the statement, "Keep out of the reach of children," or its practical equivalent, if: (i) Each cap bears conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" and; (ii) the outer carton and any accompanying printed matter bear appropriate, complete cautionary labeling.

On October 16, 2006, the Institute of Makers of Explosives (IME) petitioned the Commission to amend the regulations at 16 CFR 1500.83(a)(35), to allow the use of the term "detonator" to be used interchangeably with the term "blasting cap." The petition was docketed as HP 07-1 and, on December 12, 2006, the Commission published a notice in the **Federal Register** (71 FR 74488) stating that it had received the petition and inviting public comment on the petition. No comments were received.

IME specifically requested adding the term "detonator" to the regulation as follows (added text is underlined>:

Individual *detonators* or blasting caps are exempt from bearing the statement, "Keep out of the reach of children," or its practical equivalent, if:

(i) Each *detonator* or cap bears conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" or "DANGEROUS—DETONATOR—EXPLOSIVE";

According to IME, the terms "detonator" and "blasting cap" generally are synonymous in the explosives community. IME asserts that the term "detonator" may be interpreted as being more inclusive and is more commonly used than the term "blasting cap." To minimize the possibility that an individual may not take recommended precautions when handling initiating devices, IME states that it has encouraged the use of the term "detonator" instead of the term "blasting cap" whenever possible. IME states that there is no practical benefit to requiring the use of both the term "detonator" and "blasting cap" on

printed warnings given the limited space available on small detonators. IME does not advocate replacing the term "blasting cap" with "detonator" at this time.

The Commission believes that the technical amendment will convey useful information concerning the scope of the labeling requirements for these devices. Because the term "detonator" is used widely, including "detonator" in 16 CFR 1500.83(a)(35) will clarify that either a blasting cap or a detonator must bear conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" or "DANGEROUS—DETONATOR—EXPLOSIVE" as applicable. The inclusion of the term detonator also will increase safety awareness by warning individuals to take precautions when handling these types of devices whether they are referred to as blasting caps or detonators. Because this amendment is technical in nature rather than substantive, notice and comment are not necessary. See 5 U.S.C. 553(b)(3)(B). Moreover, the amendment does not change the substantive obligations of manufacturers of these devices. Accordingly, there is no need to delay the effective date. *Id.* 553 (d)(3).

**List of Subjects in 16 CFR Part 1500**

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Toys.

**Conclusion**

■ For the reasons discussed the Commission amends 16 CFR 1500.83 to read as follows:

**PART 1500—[AMENDED]**

■ 1. The authority citation for part 1500 continues to read as follows:

**Authority:** 15 U.S.C. 1261-1277.

■ 2. Revise paragraphs (a)(35) introductory text and (a)(35)(i) of § 1500.83 to read as follows:

**§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.**

(a) \* \* \*

(35) Individual detonators or blasting caps are exempt from bearing the statement, "Keep out of the reach of children," or its practical equivalent, if:

(i) Each detonator or cap bears conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" or "DANGEROUS—DETONATOR—EXPLOSIVE"; and

\* \* \* \* \*

Dated: June 3, 2009.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. E9-13365 Filed 6-8-09; 8:45 am]

**BILLING CODE 6355-01-P**

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

[USCG-2009-0286]

**Drawbridge Operation Regulations; New Haven Harbor, Quinnipiac and Mill Rivers, CT, Test Schedule Change**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of three bridges; the Ferry Street Bridge and the Grand Avenue Bridge across the Quinnipiac River, and the Chapel Street Bridge across the Mill River, all at New Haven, Connecticut. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed.

**DATES:** This deviation is effective from May 1, 2009 through October 26, 2009. Comments must reach the Coast Guard on or before November 15, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG-2009-0286 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone 212-668-7165. 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 material. 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–2009–0286), indicate the specific section of this document to which each comment applies, and give the reason for each suggestion or recommendation. You may submit your comments and materials 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 e-mail 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>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2009–0286” in the Docket ID box, press Enter, and 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>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0286 in the Docket ID box, press Enter, and then click on the item in the

Docket ID column. You may also visit either 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 20590–0001, 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 all 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, system of records 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 to the Docket Management Facility 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 Ferry Street Bridge at mile 0.7, across the Quinnipiac River, has a vertical clearance in the closed position of 25 feet at mean high water and 31 feet at mean low water. The Grand Avenue Bridge at mile 1.3, across the Quinnipiac River, has a vertical clearance in the closed position of 9 feet at mean high water and 15 feet at mean low water. The Chapel Street Bridge at mile 0.4, across the Mill River, has a vertical clearance of 7 feet at mean high water and 13 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.213.

The City of New Haven, the owner of the bridges, requested a change to the drawbridge operation regulations for the Ferry Street Bridge across Quinnipiac River at mile 0.7, the Grand Avenue Bridge across the Quinnipiac River at mile 1.3, and the Chapel Street Bridge at mile 0.4, across the Mill River, all at New Haven, Connecticut.

During the past four years the Ferry Street Bridge has undergone a major rehabilitation. During the rehabilitation project the movable spans were removed or left in the open position at various times allowing navigation to pass at all times.

Now that the Ferry Street Bridge is fully operational again, the bridge owner would like to test an alternate drawbridge operation schedule for all its bridges, the Ferry Street Bridge, the Grand Avenue Bridge and the Chapel Street Bridge, to help reduce the burden of crewing these bridges during time periods when there have been few requests to open.

The waterway users are seasonal recreational craft, commercial fishing, and construction vessels.

The existing drawbridge operation regulation listed at 33 CFR 117.213, authorizes a roving crew concept that requires the draw of the Ferry Street Bridge to open on signal from October 1 through April 30, between 9 p.m. and 5 a.m. unless the draw tender is at the Grand Ave. or Chapel Street bridges, in which case, a delay of up to one hour in opening is permitted.

The bridge owner would like to extend the above roving crew concept to be in effect year round.

As a result of all of the above information, the Coast Guard has decided to implement a temporary test deviation to test the requested change to the drawbridge operation regulations.

The public is invited to comment regarding the effectiveness of this temporary test deviation. The Coast Guard will consider all comments received within the comment period before determining whether this proposed rule change should become either a permanent change to the rules, be revised or modified further, or if the existing regulations should remain unchanged.

Under this temporary test deviation, in effect from May 1, 2009 through October 26, 2009, the Ferry Street Bridge, the Grand Avenue Bridge, and the Chapel Street Bridge shall operate as follows:

The Ferry Street Bridge across Quinnipiac River at mile 0.7, shall open on signal for all marine traffic; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., weekdays except Federal holidays, the draw need not be opened for the passage of vessel traffic. From 9 p.m. to 5 a.m., the draw shall open on signal if at least a one hour advance notice is given to the draw tender at the Chapel Street Bridge by calling (203) 946–7618.

The Grand Avenue Bridge across Quinnipiac River at mile 1.3, shall open on signal for all marine traffic; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., weekdays except Federal holidays, the draw need not be opened for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal if at least a one hour

advance notice is given to the draw tender at the Chapel Street Bridge by calling (203) 946-7618.

The Chapel Street Bridge across the Mill River at mile 0.4, shall open on signal for all marine traffic; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., weekdays except Federal holidays, the draw need not be opened for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal if at least a one hour advance notice is given to the draw tender by calling (203) 946-7618.

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: April 27, 2009.

**Gary Kasso**,

*Bridge Program Manager, First Coast Guard District.*

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**BILLING CODE 4910-15-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010319075-1217-02]

RIN 0648-XP65

#### Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Full-time Tier 2 Category

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; tilefish Full-time Tier 2 permit category closure.

**SUMMARY:** NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the Full-time Tier 2 permit category for the 2009 fishing year will be harvested prior to the end of the fishing year. Commercial vessels fishing under the tilefish Full-time Tier 2 permit may not harvest tilefish from within the Golden Tilefish Management Unit for the remainder of the 2009 fishing year. Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

**DATES:** Effective 0001 hrs local time, June 6, 2009, through 2400 hrs local time, October 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Anna Macan, Fisheries Management Specialist, at (978) 281-9165.

**SUPPLEMENTARY INFORMATION:** Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the Golden Tilefish Management Unit. The Golden Tilefish Management Unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36' N. lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone, and northward to the U.S.-Canada border. After 5 percent of the overall annual tilefish TAL is deducted to reflect landings by vessels issued an open-access Incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, should research TAL be set aside, the remaining TAL is distributed among three tilefish limited access permit categories; Full-time Tier 1 category (66 percent), Full-time Tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2009 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2009 fishing year. Thus, the Full-time Tier 2 permit quota for the 2009 fishing year, which is equal to 15 percent of the TAL, was specified at 284,288 lb (106,108 kg). However, due to an over-harvest in the 2008 fishing year, the quota for the Full-time permit category was adjusted downward by 7,332 lb (3,326 kg) to 276,956 lb (125,625 kg). Notification of the 2009 Full-time Tier 2 category quota for the 2009 fishing year was sent in a Permit Holder Letter to all tilefish limited access permit holders on October 7, 2008.

The Administrator, Northeast Region, NMFS (Regional Administrator), monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access permit category is projected to have been harvested. NMFS is required to publish notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective upon a specific date, the tilefish TAL for the specific limited access category has been harvested and no commercial quota is available for harvesting tilefish by that category for the remainder of the

fishing year, from within the Golden Tilefish Management Unit.

The Regional Administrator has determined, based upon dealer reports and other available information, that there is a high likely hood that the 2009 tilefish TAL for the Full-time Tier 2 category has been harvested as of June 1, 2009. Therefore, effective 0001 hr local time, June 6, 2009, further landings of tilefish harvested from within the Golden Tilefish Management Unit by tilefish vessels holding Full-time Tier 2 category Federal fisheries permits are prohibited through October 31, 2009. The 2010 fishing year for commercial tilefish harvest will open on November 1, 2009. Federally permitted dealers are also advised that, effective June 6, 2009, they may not purchase tilefish from Full-time Tier 2 category federally permitted tilefish vessels who land tilefish harvested from within the Golden Tilefish Management Unit for the remainder of the 2009 fishing year (through October 31, 2009).

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. If implementation of this closure is delayed to solicit prior public comment, the quota for this category would be exceeded given the rate of harvest of tilefish for vessels in this category. This would conflict with the agency's legal obligation under section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act to rebuild this fishery as soon as possible. Overage of the Full-time Tier 2 category quota that occurs in a given fishing year is subtracted from the quota for this category in the following fishing year. This would have a negative economic impact on owners of vessels permitted in the Full-time Tier 2 category, who did not contribute to the overage this year, and fish during the next fishing year. The AA further finds pursuant to 5 U.S.C. 553(d)(3) good cause to waive the thirty 30-day delayed effectiveness period for the reasons stated above.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 3, 2009.

**Kristen C. Koch**,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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