

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 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule finalizes the establishment of a special local regulation that was published as a Supplemental Notice of Proposed Rulemaking with an invitation to comment on March 22, 2010. No comments were received that would affect the assessment of environmental impacts from this action. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** Authority: 33 U.S.C. 1233.

■ 2. Add § 100.122 to read as follows:

#### § 100.122 Fran Schnarr Open Water Championships, Huntington Bay, New York.

(a) *Regulated area.* All navigable waters of Huntington Bay, NY within 100 yards of any swimmer or safety craft on the race course bounded by the following points: Start/Finish at approximate position 40°54'25.8" N 073°24'28.8" W, East Turn at approximate position 40°54'45" N

073°23'36.6" W and a West Turn at approximate position 40°54'31.2" N 073°25'21" W.

(b) *Definitions.* The following definitions apply to this section: *Designated On-scene Patrol Personnel* means any commissioned, warrant or petty officer of the U.S. Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port Long Island Sound.

(c) *Special local regulations.* (1) No person or vessel may approach or remain within 100 yards of any swimmer or safety craft within the regulated area during the enforcement period of this regulation unless they are officially participating in the Fran Schnarr Open Water Championships event or are otherwise authorized by the Captain of the Port Long Island Sound or by Designated On-scene Patrol Personnel.

(2) All persons and vessels must comply with the instructions from Coast Guard Captain of the Port or the Designated On-scene Patrol Personnel. The Designated On-scene Patrol Personnel may delay, modify, or cancel the swim event as conditions or circumstances require.

(3) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(4) Persons and vessels desiring to enter the regulated area within 100 yards of a swimmer or safety craft may request permission to enter from the designated on scene patrol personnel by contacting them on VHF-16 or by a request to the Captain of the Port Long Island Sound via phone at (203) 468-4401.

(d) *Enforcement period.* This rule is enforced from 7:15 a.m. to 11:30 a.m. on July 11, 2010 and thereafter on a specified day each July to be determined on an annual basis. Notification of the specific date, times and enforcement of the special local regulation will be made via a Notice of Enforcement in the **Federal Register**, separate marine broadcasts and local notice to mariners.

Dated: June 1, 2010.

**Daniel A. Ronan,**

*Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.*

[FR Doc. 2010-16367 Filed 7-2-10; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2010-0461]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Shrewsbury River, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing the drawbridge operation regulations that govern the operation of the Route 36 Bridge at mile 1.8, across the Shrewsbury River at Highlands, New Jersey. This final rule removes the regulations for the Route 36 Bridge because the bridge has been removed and replaced with a fixed bridge.

**DATES:** This rule is effective July 6, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket USCG-2010-0461 and are available by going to <http://www.regulations.gov>, inserting USCG-2010-0461 in the "keyword" box, and then clicking "search." This material is also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Mr. Joe Arca, Project Officer, First Coast Guard District Bridge Branch, 212-668-7165, [joe.arca@uscg.mil](mailto:joe.arca@uscg.mil). 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 final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedures 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 we are removing the operation regulations for a moveable draw bridge that has been replaced with a fixed span bridge that does not open.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The drawbridge listed under the regulations we are removing has already been replaced with a fixed span highway bridge that does not open; therefore, the regulations are no longer applicable or necessary.

#### **Background and Purpose**

The drawbridge operation regulations for the Route 36 Bridge at mile 1.8, across the Shrewsbury River at Highlands, New Jersey, are listed at 33 CFR 117.755(a).

The bridge has been demolished and replaced with a fixed span structure; therefore, the Coast Guard is removing the drawbridge operation regulations for that bridge because they are no longer applicable or necessary since the bridge they govern, the Route 36 Bridge at mile 1.8, has been removed.

#### **Discussion of Rule**

This final rule is removing the drawbridge operation regulations listed at 33 CFR 117.755(a) that govern the operation of the Route 36 Bridge at mile 1.8, across the Shrewsbury River at Highlands, New Jersey, which has been demolished and replaced with a fixed span bridge.

#### **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. This conclusion is based upon the fact that we are removing regulations that are no longer applicable or necessary.

#### **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. This conclusion is based upon the fact that we are removing regulations that are no longer applicable or necessary.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so they can better evaluate its effect 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 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 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 cause a taking of private property or otherwise have a taking implication 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 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 concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), promulgation of operating regulations or procedures for drawbridges, of the Instruction. 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 § 117.755 to read as follows:

#### § 117.755 Shrewsbury River.

The draw of the Monmouth County highway bridge at mile 4.0, across the Shrewsbury River at Sea Bright, New Jersey, shall operate as follows:

(a) The draw shall open on signal at all times; except that, from May 15 through September 30, on Saturday, Sunday, and holidays, between 9 a.m. and 7 p.m., the draw need open only on the hour and half hour.

(b) The draw need not be opened at any time for a sail boat unless it is operating under auxiliary power or is being towed by a powered vessel.

(c) The owners of the bridge shall keep in good legible condition two clearance gages with figures not less than eight inches high, designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

Dated: June 18, 2010.

#### Daniel A. Neptun,

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0492]

RIN 1625-AA00

#### Safety Zone; Macy's Fourth of July Fireworks Display, Hudson River, New York, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of the Hudson River for the Macy's Fourth of July Fireworks Display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays. This zone is intended to restrict vessel traffic from a portion of the Hudson River during the event.

**DATES:** This rule is effective from 7 p.m. on July 4, 2010 until 11 p.m. on July 5, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0492 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0492 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LTJG Eunice James, Sector New York Waterways Management Division, Marine Events Branch, Coast Guard; telephone (718) 354-4163, e-mail [Eunice.A.James@uscg.mil](mailto:Eunice.A.James@uscg.mil). 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 sufficient information regarding the event was not received in time to publish a NPRM followed by a final rule before the effective date, thus making the publication of a NPRM impractical. The Coast Guard did not receive final details regarding the location of the fireworks launch barges and proposed locations for spectator vessel viewing areas necessary to ensure the safety of the event participants and spectators until the Macy's Fireworks Interagency meeting held on May 12, 2010. Immediate action is necessary to prevent vessel traffic from transiting a navigable portion of the Hudson River and to protect the maritime public from the inherent hazards associated with this fireworks event. A delay or cancellation of the event in order to allow for a notice and comment period is contrary to the public interest in having this event occur on July 4 as scheduled.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The rule needs to become effective on the date specified above in order to provide for the safety of the public including spectators and vessels operating in the area near the fireworks display. Delaying the effective date of this rule until after 30 days have elapsed since publication is impractical and a delay or cancellation of the fireworks event to accommodate the 30 day notice period is contrary to the public's interest in having the event occur on July 4th 2010.

##### Basis and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with the inherent explosive and flammable nature of a large fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port New York has determined that fireworks launches proximate to watercrafts pose significant risk to public safety and property. The combination of increased numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, and debris falling into the water has the potential to result in serious injuries or fatalities. This