

Governments” (65 FR 67249; November 9, 2000), requires DOE to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” refers to regulations that have “substantial direct effects 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.” Today’s regulatory action is not a policy that has “tribal implications” under Executive Order 13175. Today’s regulatory action amends the eligibility provisions applicable to multi-unit buildings under the Weatherization Assistance Program. DOE has reviewed today’s action under Executive Order 13175 and has determined that it is consistent with applicable policies of that Executive Order.

#### K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today’s final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is a “major rule” as defined by 5 U.S.C. 804(2). DOE also will submit the supporting analyses to the Comptroller General in the U.S. Government Accountability Office (GAO) and make them available to each House of Congress.

#### V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today’s final rule.

#### List of Subjects in 10 CFR Part 440

Administrative practice and procedure, Aged, Energy conservation, Grant programs—energy, Grant programs—housing and community development, Housing standards, Indians, Individuals with disabilities, Reporting and recordkeeping requirements, Weatherization.

Issued in Washington, DC, on January 14, 2010.

**Catherine R. Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

■ For the reasons set forth in the preamble, DOE is amending Part 440 of chapter II of title 10, Code of Federal Regulations to read as follows:

#### PART 440—WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

■ 1. The authority citation for Part 440 continues to read as follows:

**Authority:** 42 U.S.C. 6861, *et seq.*; 42 U.S.C. 7101 *et seq.*

■ 2. Section 440.22 is amended by adding paragraph (b)(4) to read as follows:

##### § 440.22 Eligible dwelling units.

\* \* \* \* \*

(b) \* \* \*

(4)(i) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraphs (b)(3)(ii) and (b)(3)(iv), of this section if it is included on the most recent list posted by DOE of Assisted Housing and Public Housing buildings identified by the U.S. Department of Housing and Urban Development as meeting those requirements.

(ii) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraph (b)(3)(iv), of this section if it is included on the most recent list posted by DOE of Assisted Housing and Public Housing buildings identified by the U.S. Department of Housing and Urban Development as meeting those requirements.

(iii) A building containing rental dwelling units meets the requirement of paragraph (b)(2) of this section if it is included on the most recent list posted by DOE of Low Income Housing Tax Credit buildings identified by the U.S. Department of Housing and Urban Development as meeting that requirement and of Rural Housing Service Multifamily Housing buildings identified by the U.S. Department of Agriculture as meeting that requirement.

(iv) For buildings identified under paragraphs (b)(4)(i), (ii) and (iii) of this section, States will continue to be responsible for ensuring compliance with the remaining requirements of this section, and States shall establish requirements and procedures to ensure such compliance in accordance with this section.

\* \* \* \* \*

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#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2009-0453]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Great Egg Harbor Bay, Between Beesleys Point and Somers Point, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations that govern the operation of the US Route 9/Beesleys Point Bridge over Great Egg Harbor Bay, at mile 3.5, between Beesleys Point and Somers Point, NJ. This rule will allow the drawbridge to operate on an advance notice basis during specific dates and times of the year. The rule change will result in more efficient use of the bridge during dates and times of infrequent transit.

**DATES:** This rule is effective February 24, 2010.

**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-2009-0453 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0453 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 Sandra S. Elliott, Bridge Administration Branch, Fifth Coast Guard District, telephone 757-398-6557, e-mail [Sandra.S.Elliott@uscg.mil](mailto:Sandra.S.Elliott@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

On June 24, 2009, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Great Egg Harbor Bay, between Beesleys Point and Somers Point, NJ, in the **Federal Register** (74 FR 30031). We received two comments on

the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

The Cape May County Department of Public Works, (The County) is responsible for the operation of the U.S. Route 9 Bridge, at mile 3.5, across Great Egg Harbor Bay, between Beesleys Point and Somers Point, NJ. The County requested advance notification for vessel openings during specific dates

and times of the year due to the infrequency of requests for vessel openings of the drawbridge.

The U.S. Route 9/Beesleys Point Bridge has a vertical clearance of eight feet above mean high water in the closed-to-navigation position. The existing operating schedule is set out in 33 CFR 117.5, which requires the drawbridge to open promptly and fully for the passage of vessels when a request to open is given.

Bridge opening data, supplied by the County, revealed minimal requests for vessel openings during periods of time that the County desires to have the bridge unmanned. The numbers of openings vary from a high number of openings during the summer and a low number of openings during the winter. Similarly, there are very few openings during the hours of darkness. (See Table)

**SUMMER BRIDGE OPENINGS—MAY 15 TO SEPTEMBER 30**

	2003	2004	2005	2006	2007	2008
12 a.m. to 6 a.m .....	5	6	6	4	4	0
10 p.m. to 6 a.m .....	5	10	7	10	10	4
8 p.m. to 6 a.m .....	25	22	16	22	18	18

**WINTER BRIDGE OPENINGS—OCTOBER 1 TO MAY 14**

	2003	2004	2005	2006	2007	2008
12 a.m. to 6 a.m .....	2	5	4	1	5	5
10 p.m. to 6 a.m .....	4	5	8	1	5	9
8 p.m. to 6 a.m .....	5	5	11	3	7	10

Due to the small number of bridge openings during the winter from 2003 to 2008, the County requested to change the current operating regulation by requiring the draw of the bridge to open if at least two hours notice is given on signal from October 1 to May 14 from 8 p.m. to 6 a.m., and from May 15 to September 30 from 10 p.m. to 6 a.m. At all other times, the draw shall open on signal.

The County requests an additional change to the operating regulations to allow the U.S. Route 9/Beesleys Point Bridge to operate on an advance notice on December 24 through December 26 of every year. This advance notice request coincides with other drawbridges operated by the County for the same dates in December.

The County will install a sign on both faces of the bascule span indicating the hours of operations and a two-hour advance notice when the bridge is unmanned. The sign will also list the County Public Works Department 24-hour telephone number at (609) 368-4591.

The Coast Guard believes that all of the changes are reasonable because the drawbridge would still open during specific dates and times after the advance notice is given.

**Discussion of Comments and Changes**

The Coast Guard received two comments to the NPRM. One of the respondents was a commercial shipyard owner who did not foresee a problem

with the regulation as proposed. However, many of his commercial customers would prefer that the bridge be constructed for a wider horizontal clearance. In response, the County indicated that a budget has been developed for rehabilitation of their bridges and currently an investigation is under way to determine if a reasonable rehabilitation program can be undertaken to accommodate wider vessels.

The other respondent, a local resident, also agreed to the proposal, however, suggested that the bridge be left in the open position to vessels until the bridge is reopened to vehicle traffic. The County responded that due to the potential damage, the moveable span leaves must be physically locked with cables for the span to be in an up position for any length of time. The cost to design such a system would be excessive. However, the County expects to perform construction activity on the bridge within a year and would then have to lower the bridge for access. In addition, the County is concerned about vandalism if no one was at the bridge for long periods of time. Based on the comments received and information provided, the Coast Guard will implement the final rule with no substantive changes to the NPRM. Text modifications are revised for clarity and consistency.

**Discussion of Rule**

The Coast Guard will insert new regulations at 33 CFR § 117.722. The draw of the U.S. Route 9/Beesleys Point Bridge shall open if at least two hours notice is given from October 1 to May 14 from 8 p.m. to 6 a.m., from May 15 to September 30 from 10 p.m. to 6 a.m., and from 8 p.m. on December 24 until and including 6 a.m. on December 26 of every year; and shall open on signal at all other times.

**Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis 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 expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. We reached this conclusion based on the fact that these changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan

their trips in accordance with the bridge schedule to minimize delays.

### 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 rule will affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit the bridge from October 1 to May 14 from 8 p.m. to 6 a.m., from May 15 to September 30 from 10 p.m. to 6 a.m., and from 8 p.m. on December 24 until 6 a.m. on December 26.

This rule will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the bridge schedule can minimize delay.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Act of 1966 (Pub. L. 104–121), in the NPRM 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.

### 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 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 M16475.1D 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 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), 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. Add new § 117.722 to read as follows:

#### § 117.722 Great Egg Harbor Bay.

The draw of the U.S. Route 9/Beesleys Point Bridge, mile 3.5, shall open if at least two hours’ notice is given from October 1 to May 14 from 8 p.m. to 6

a.m., from May 15 to September 30 from 10 p.m. to 6 a.m., and from 8 p.m. on December 24 until and including 6 a.m. on December 26 of every year; and shall open on signal at all other times.

Dated: January 4, 2010.

**Wayne E. Justice,**

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

[FR Doc. 2010-1264 Filed 1-22-10; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-1130]

RIN 1625-AA00

#### Safety Zone; Baltimore Captain of Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary interim rule with request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in all navigable waters of the Captain of the Port Baltimore zone. The temporary safety zone restricts vessels from transiting the zone during the effective period, unless authorized by the Captain of the Port Baltimore, or his designated representative. This safety zone is necessary to protect mariners from the hazards associated with ice in the navigable waterway.

**DATES:** This temporary interim rule is effective in the CFR on January 25, 2010 until April 15, 2010. This temporary interim rule is enforceable with actual notice by Coast Guard personnel beginning on January 6, 2010. Comments and related material must reach the Coast Guard on or before February 24, 2010 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2009-1130 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 temporary interim rule, call or e-mail Ronald L. Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@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-2009-1130), 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 (via <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 delivery, 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 telephone 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 Rule" and insert "USCG-2009-1130" 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 this 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-2009-1130" and click "Search." Click the "Open Docket Folder" in the "Actions" 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, 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 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 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

##### **Regulatory Information**

The Coast Guard is issuing this temporary interim 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