

beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

#### **Drafting Information**

The drafters of this notice are Mr. J. Arca, Project Officer, Bridge Branch and Lieutenant Commander Samuel R. Watkins, Project Attorney, District Legal Office.

#### **Background and Purpose**

Two bridges cross the Mansquan River between Brielle and Point Pleasant Beach, New Jersey. The first is the Brielle Point Pleasant (NJTRO) Bridge at mile 0.9, owned and operated by New Jersey Transit Rail Operations (NJTRO). It has a horizontal clearance of 48 feet and a vertical clearance of 3 feet as mean high water (MHW) and 6 feet at mean low water (MLW). The narrow horizontal clearance normally permits the passage of only one boat at a time through the draw in either direction. During the period Memorial Day to Labor Day, the Brielle Point Pleasant (NJTRO) bridge is normally maintained in the open position and closed 4 to 5 minutes before the arrival of a train.

The second bridge is the Route 35 bridge located at mile 1.1. It has a horizontal clearance of 90 feet and a vertical clearance of 30 feet at MHW and 33 feet at MLW. The Route 35 Bridge opens for commercial vessels, sailboats, and recreational power vessels with tuna towers and outriggers.

During the recreational boating season the daily weekday volume of marine traffic transiting through the Route 35 Bridge between 6 a.m. and 2 p.m. is greater than 200 vessels, and between 2 p.m. and 10 p.m. is more than 400 vessels. The volume of marine traffic increase on weekends. The number of daily vessel transits on weekends between 6 a.m. and 2 p.m. is greater than 600 vessels, and between 2 p.m. and 10 p.m. is more than 1000 vessels.

Train schedules limit the times vessels can transit the waterway. Monday through Friday, 14 trains cross the NJTRO bridge between 1 a.m. and 12 noon; 21 trains cross the bridge between 12 noon and 11 p.m.

Statistics provided by NJDOT show that the number of bridge openings for vessels during the past seven years remained relatively constant, averaging 2300 to 2400 openings a year. The duration of openings average approximately seven minutes. Occasional back to back bridge openings have interrupted vehicular traffic for extended periods of time. The proposed

temporary regulation was requested to evaluate the benefits and problems to both vehicular and marine traffic.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for these regulations and good cause exists for making them effective in less than 30 days after Federal Register publication. Publishing a Notice of Proposed Rulemaking and delaying the effective date of the temporary rule would be contrary to the public interest since implementation of these regulations would not permit evaluation during the prime recreational boating season when the greatest measurable impacts and benefits occur.

The current regulation provides that the draw of the Route 35 bridge, mile 1.1 (Manasquan River) at Brielle, shall open on signal, except that from Memorial Day through Labor Day on Saturdays, Sundays, and Federal holidays from 10 a.m. to 8 p.m., the draw need only open on the hour and half hour. The draw opens at all times as soon as possible for passage of public vessels used for public safety, commercial vessels and vessels in distress.

The NJDOT is also conducting a study of highway traffic patterns both north and south of the route 35 bridge to determine what additional corrective measures are needed to help reduce traffic congestion.

#### **Discussion of Regulation**

This temporary rule will require openings 15 minutes before and 15 minutes after the hour from 4 p.m. to 7 p.m. Monday through Thursday and 12 noon through 7 p.m. on Fridays.

It is expected that this will alleviate some vehicular traffic congestion as well as safety problems for recreational and commercial vessels that are caused when they must hold or maneuver between the Route 35 and Brielle Point Pleasant NJTRO bridge while awaiting bridge openings.

This temporary final regulation is being published to evaluate suggested changes to the drawbridge regulation during the prime recreational boating season.

#### **Regulatory Evaluation**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040;

February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is based upon the fact that commercial vessels will not be affected by this rule and that this rule will not prevent recreational boaters from transiting the bridge. Rather it will only require them to adjust their time of arrival for openings to 15 minutes before and 15 minutes after the hour.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this action, if adopted, will not have a significant economic impact on a substantial number of small entities.

#### **Collection of Information**

This temporary final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### **Federalism**

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and it has determined that this temporary final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### **Environment**

The Coast Guard considered the environmental impact of this temporary final rule and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994) this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under ADDRESSES.

#### **List of Subjects in 33 CFR Part 117**

Bridges.

For the reasons set out in the preamble, the Coast Guard is temporarily amending 33 CFR part 117 as follows: