

*Example 5.* (i) Same facts as in *Example 4*. GG depreciated Equipment Y3 under the general depreciation system of section 168(a) by using the 200-percent declining balance method of depreciation, a 5-year recovery period, and the half-year convention. GG elected to use the optional depreciation tables to compute the depreciation allowance for Equipment Y3. On July 1, 2003, GG acquired Equipment Z1 by exchanging Equipment Y3 in a like-kind exchange. Equipment Z1 is 50-percent bonus depreciation property under section 168(k)(4) and is 5-year property under section 168(e). Pursuant to paragraph (g)(3)(ii) of this section and § 1.168(i)-6T(k)(2)(i), GG decided to apply § 1.168(i)-6T to the exchange of Equipment Y3 for Equipment Z3, the acquired MACRS property.

(ii) For the taxable year ending June 30, 2003, the regular MACRS depreciation deduction allowable for the remaining carryover basis at the time of replacement (after taking into account the additional first year depreciation deduction) of Equipment Y3 is \$2,800 (the remaining carryover basis at the time of replacement of \$20,000 minus the additional first year depreciation deduction of \$6,000, multiplied by the annual depreciation rate of .20 for recovery year 1) and for the remaining excess basis at the time of replacement (after taking into account the additional first year depreciation deduction) of Equipment Y3 is \$700 (the remaining excess basis at the time of replacement of \$5,000 minus the additional first year depreciation deduction of \$1,500, multiplied by the annual depreciation rate of .20 for recovery year 1), which totals \$3,500.

(iii) For the taxable year ending June 30, 2004, the regular MACRS depreciation deduction allowable for the remaining carryover basis (after taking into account the additional first year depreciation deduction) of Equipment Y3 is \$2,240 (the remaining carryover basis at the time of replacement of \$20,000 minus the additional first year depreciation deduction of \$6,000, multiplied by the annual depreciation rate of .32 for recovery year  $2 \times \frac{1}{2}$  year) and for the remaining excess basis (after taking into account the additional first year depreciation deduction) of Equipment Y3 is \$560 (the remaining excess basis at the time of replacement of \$5,000 minus the additional first year depreciation deduction of \$1,500, multiplied by the annual depreciation rate of .32 for recovery year  $2 \times \frac{1}{2}$  year), which totals \$2,800.

(iv) For the taxable year ending June 30, 2004, pursuant to paragraph (f)(5)(iii)(A) of this section, the 50-percent additional first year depreciation deduction for Equipment Z1 is allowable for the remaining carryover basis at the time of replacement of \$11,200 (Equipment Y3's unadjusted depreciable basis of \$25,000 minus the total additional first year depreciation deduction of \$7,500 minus the total 2003 regular MACRS depreciation deduction of \$3,500 minus the total 2004 regular depreciation deduction (taking into account the half-year convention) of \$2,800). Thus, the 50-percent additional first year depreciation deduction for the remaining carryover basis at the time of

replacement equals \$5,600 (\$11,200 multiplied by .50).

\* \* \* \* \*

(g) \* \* \* (1) \* \* \* (i) \* \* \*

(ii) Except as provided in paragraph (g)(3)(ii) of this section, the applicability of this section expires on or before September 4, 2006.

(2) \* \* \*

(3) \* \* \*—(i). \* \* \*

(ii) Paragraph (f)(5)(ii)(F)(2) of this section and paragraph (f)(5)(v) of this section apply to a like-kind exchange or an involuntary conversion of MACRS property and computer software for which the time of disposition and the time of replacement both occur after February 27, 2004. For a like-kind exchange or an involuntary conversion of MACRS property for which the time of disposition, the time of replacement, or both occur on or before February 27, 2004, *see* § 1.168(i)-6T(k)(2)(ii). For a like-kind exchange or involuntary conversion of computer software for which the time of disposition, the time of replacement, or both occur on or before February 27, 2004, a taxpayer may rely on prior guidance issued by the Internal Revenue Service for determining the depreciation deductions of the acquired computer software and the exchanged or involuntarily converted computer software (for further guidance, *see* § 1.168(k)-1T(f)(5) published in the **Federal Register** on September 8, 2003 (68 FR 53000)). In relying on such guidance, a taxpayer may use any reasonable, consistent method of determining depreciation in the year of disposition and the year of replacement. The applicability of paragraph (f)(5) of this section expires on or before February 27, 2007.

\* \* \* \* \*

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 17, 2004.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 04-3992 Filed 2-27-04; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07-03-088]

RIN 1625-AA09

### Drawbridge Operation Regulations; Miami River, North Fork, Miami, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating regulations and the name of the Seaboard System Railroad Bridge, across the Miami River, mile 5.3, Miami, Florida. This rule requires the bridge to open only after a 48-hour advance notice to the owner. In addition, the Coast Guard is changing the name from Seaboard System Railroad Bridge to the FDOT Railroad Bridge, to reflect the current owner.

**DATES:** This rule is effective March 31, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD07-03-088) and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Miami, Florida 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Project Manager, Seventh Coast Guard District, Bridge Branch, (305) 415-6743.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

On August 5, 2003, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Miami River, North Fork, Miami, Florida in the **Federal Register** (68 FR 46139). We received 1 comment on this notice of proposed rulemaking (NPRM). No public hearing was requested, and none was held.

#### Background and Purpose

The Seaboard System Railroad Bridge across the Miami River, mile 5.3, is a railroad bridge with a vertical clearance of 6 feet at mean high water and a horizontal clearance of 60 feet. The current operating regulations published in 33 CFR 117.307 require the bridge to open on signal from 8:30 a.m. to 5:30 p.m., Monday through Friday. All other times the draw must open on signal if

at least three hours notice is given. The last time the bridge was opened for vessel traffic, however, was December 2, 2001, though a full time bridge tender is on site. This rule will improve the efficiency of the bridge system and meet the reasonable needs of navigation by providing for openings with a 48-hour advance notice to the CSX System Operating Headquarters, at (800) 232-0144. In addition, the owner is requesting that the Coast Guard change the name of the bridge, which has been sold, from the Seaboard System Railroad Bridge to the FDOT Railroad Bridge.

#### Discussion of Comments and Changes

We received 1 comment on the notice of proposed rulemaking (NPRM) advising us that the current owner is Florida Department of Transportation (FDOT) and not CSX Railroad. CSX Railroad is under contract to FDOT to operate and maintain the bridge.

We have carefully considered the comment and made the ownership correction to the rule. Under this rule the bridge would open only with a 48-hour advance notice to the CSX System Operating Headquarters, at (800) 232-0144. This bridge is the last moveable structure on the river approximately 1000 yards from a salinity dam, which marks the end of navigability on the Miami River. The bridge has not opened for navigation since December 2, 2001, and, except for normal maintenance, experienced the same pattern of no openings for the year 2002. Accordingly, this schedule will meet the reasonable needs of navigation. Moreover, in order to accurately refer to the bridge, this rule will change the name from Seaboard System Railroad Bridge to the FDOT Railroad Bridge.

#### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary, because the rule will only affect a small percentage of vessels that travel through this bridge and openings are available with 48-hour advance notice.

#### 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, because the past few years of the bridge's history indicates that it rarely opens. The rule provides for openings and meets the reasonable needs of navigation.

#### 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 rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### 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 the 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. It has not been designated by the

Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this 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.

#### 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. § 117.307 is revised to read as follows:

##### § 117.307 Miami River, North Fork.

The draw of the FDOT Railroad Bridge, mile 5.3 at Miami, shall open on signal if at least 48-hour notice is given to CSX System Operating Headquarters (800) 232–0144.

Dated: February 13, 2004.

**Harvey E. Johnson, Jr.,**  
*Rear Admiral, U.S. Coast Guard, Commander,  
Seventh Coast Guard District.*

[FR Doc. 04–4487 Filed 2–27–04; 8:45 am]

BILLING CODE 4910–15–P

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 117

[CGD08–04–008]

##### Drawbridge Operation Regulations; Gulf Intracoastal Waterway—Black Bayou, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a

temporary deviation from the regulation governing the operation of the Black Bayou Pontoon Bridge across the Gulf Intracoastal Waterway, mile 237.5 west of Harvey Lock, in Calcasieu Parish, LA. This deviation allows the bridge to remain closed to navigation during daylight hours during weekdays only for four weeks. The deviation is necessary to repair and replace damaged portions of the fender system.

**DATES:** This deviation is effective from 7 a.m. on Wednesday, March 17, 2004 through 5 p.m. on Wednesday, April 14, 2004.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, telephone (504) 589–2965.

**SUPPLEMENTARY INFORMATION:** The Louisiana Department of Transportation and Development (LDOTD) has requested a temporary deviation in order to remove and replace damaged portions of the fender system of the Black Bayou Pontoon Bridge across the Gulf Intracoastal Waterway, mile 237.5 west of Harvey Lock, in Calcasieu Parish, LA. The repairs are necessary to ensure the safety of the bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 7 a.m. until 11 a.m. and from 1 p.m. until 5 p.m. Monday through Friday from March 17, 2004 through April 14, 2004.

As the bridge has no vertical clearance in the closed-to-navigation position, vessels will not be able to transit through the bridge sight when the bridge is closed. Navigation at the site of the bridge consists mainly of tows with barges and some recreational pleasure craft. Due to prior experience, as well as coordination with waterway users, it has been determined that this closure will not have a significant effect on these vessels. The bridge normally opens to pass navigation an average of 878 times per month. The bridge opens on signal as required by 33 CFR 117.5. The bridge will be able to open for emergencies during the closure period with proper notice. Alternate routes are not available.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 18, 2004.

**Marcus Redford,**

*Bridge Administrator.*

[FR Doc. 04–4488 Filed 2–27–04; 8:45 am]

BILLING CODE 4910–15–P

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 117

[CGD01–04–014]

##### Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain closed from 7 a.m. on March 8, 2004 through 4 p.m. on March 9, 2004, and from 7 a.m. on April 2, 2004 through 4 p.m. on April 4, 2004, to facilitate necessary bridge maintenance.

**DATES:** This deviation is effective from March 8, 2004 through April 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Project Officer, First Coast Guard District, at (212) 668–7069.

**SUPPLEMENTARY INFORMATION:** The New York City Department of Transportation (NYCDOT) Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

NYCDOT, requested a temporary deviation from the drawbridge operation regulations to facilitate repairs to the electrical controls at the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position from 7 a.m. on March 8, 2004 through 4 p.m. on March 9, 2004, and from 7 a.m. on