

Dated: March 7, 1995.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13-93-031]

Drawbridge Operation Regulation; Columbia River, OR and WA

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice supplements a notice of proposed rulemaking concerning the drawbridge operation regulations for the twin Interstate 5 drawbridges across the Columbia River, mile 106.5, between Portland, Oregon, and Vancouver, Washington. Previous notices of proposed rulemaking which proposed the extension of the morning and afternoon time periods when the bridge need not open did not contain language needed to distinguish the proposed rule's applicability to commercial and noncommercial vessels. This supplemental notice adds the omitted language and clearly states the proposed rule's applicability by vessel type and river flow conditions.

DATES: Comments must be received on or before May 15, 1995.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3410, Seattle, Washington. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220-7272).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, and arguments. Persons submitting comments should include

their names and addresses, identify this notice, specify the section of this notice to which each comment applies, and give the reason for each comment. Two copies of each comment should be provided in an unbound format. All comments should be on paper no larger than 8½ by 11 inches and should be suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The proposed regulations may be changed in light of comment received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

The Coast Guard plans no public hearings. Persons may request a public hearing by writing to the above address. The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentation will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information: The principal persons involved in drafting this document are John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, Thirteenth Coast Guard District, Seattle, WA, and LCDR John Odell, project attorney, Thirteenth Coast Guard District Legal Office, Seattle, WA.

Background and Purpose

This notice proposes drawbridge operation regulations for the twin Interstate 5 drawbridges across the Columbia River, mile 106.5, between Portland, Oregon, and Vancouver, Washington. The proposed rule would extend the morning and afternoon time periods when the draws of the bridges need not open for the passage of vessels while delineating clear exceptions based on the river flow conditions and the type of vessel traffic involved.

Regulatory History

This notice is the second supplemental notice of proposed rulemaking published for this proposed rule. The original notice of proposed rulemaking, published in the **Federal Register** on November 26, 1993 (58 FR 62302), proposed an extension of the morning and afternoon time periods when the draws need not open for the passage of vessels without regard to vessel type or river flow condition. A supplemental notice, published in the **Federal Register** on October 4, 1994 (59 FR 50531), provided for relatively uninterrupted vehicular flow during peak traffic times while being less

restrictive to vessel traffic by adding provisions which would apply during periods of high river flow conditions. However, that first supplemental notice of proposed rulemaking omitted language distinguishing the rule's applicability to commercial and noncommercial vessels. This second supplemental notice of proposed rulemaking adds the language to clearly state the proposal's applicability to commercial and noncommercial vessel traffic.

Discussion of Proposed Regulation

The twin Interstate 5 vertical lift bridges across the Columbia River between Portland, Oregon, and Vancouver, Washington, are currently required to open on signal, except that from 6:30 a.m. to 8:00 a.m. and from 3:00 p.m. to 6:00 p.m., Monday through Friday (except Federal holidays), the draws need not open. These closed periods are necessary to accommodate peak morning and afternoon vehicular commute traffic across the bridges. Both bridges also provide alternate mid-level fixed spans which provide greater vertical clearance than do the drawspans in the closed position. The alternate fixed spans are routinely used by tug and barge traffic except at higher water surface elevations. Because the number of vehicles crossing the interstate bridges has increased dramatically, particularly during commute times, any opening in close proximity to these commute times, before or after, results in unacceptable vehicular traffic delays. Therefore, Oregon State Department of Transportation (ORDOT) has requested an extension of the weekday closed periods.

Subsequent to publication of a previous supplemental notice of proposed rulemaking on October 4, 1994 (59 FR 50531), the Coast Guard recognized the need for clarification concerning the rule's applicability to commercial and noncommercial vessels. After reevaluation, the Coast Guard determined that the proposed rule's provisions for high water conditions (when the river gauge indicates 6.0 feet or more) were only required in order to meet the reasonable needs of commercial vessel traffic. The needs of noncommercial vessel traffic will be adequately met during high water conditions despite the extended closed periods.

Therefore, based on this reevaluation, this second notice of proposed rulemaking further amends the proposed rule, making the high water provisions applicable only to commercial vessels. During low water

conditions (when the river gauge indicates 5.9 feet or less), the proposed extended periods when the bridges need not open for the passage of vessels will apply to both commercial and noncommercial vessels.

Regulatory Evaluation

This proposal is not a significant 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 proposal to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Most waterway traffic can be accommodated by the alternate fixed span channel. For the benefit of commercial vessels, the proposed rule would revert to its previous, less-restrictive form when the vertical clearance under the alternate fixed span was less than 52 feet.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal 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 field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because the impacts of this proposal are expected to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposal will not have a significant impact on a substantial number of small entities.

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Environment

The Coast Guard considered the environmental impact of this proposed regulation and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59

FR 38654; July 29, 1994), this proposed regulation is categorically excluded from further environmental documentation. An environmental checklist and categorical exclusion determination have been completed for this proposed action and have been included in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations 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; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. In § 117.869, paragraph (a) is revised to read as follows:

§ 117.869 Columbia River.

(a) The draws of the Interstate 5 highway bridge, mile 106.5, between Portland, OR, and Vancouver, WA, shall open on signal, except that:

(1) When the river gauge at the bridge indicates 6.0 feet, or more, as determined by the drawtender on duty, the draws need not open for the passage of commercial vessels from 6:30 a.m. to 8:00 a.m. and from 3:30 p.m. to 6:00 p.m. Monday through Friday, except Federal holidays, and for all other vessels the draws need not open from 5:30 a.m. to 9:00 a.m. and from 2:30 p.m. to 6:00 p.m. Monday through Friday, except Federal holidays.

(2) When the river gauge at the bridge indicates 5.9 feet, or less, as determined by the drawtender on duty, the draws need not open for the passage of any vessels from 5:30 a.m. to 9:00 a.m. and from 2:30 p.m. to 6:00 p.m. Monday through Friday, except Federal holidays.

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Dated: February 28, 1995.

John A. Pierson,

Captain, U.S. Coast Guard, Commander, 13th Coast Guard District, Acting.

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DEPARTMENT OF DEFENSE

Department of the Army

Corp of Engineers

33 CFR Parts 320, 325 and 333

Wetland Delineator Certification Program

AGENCY: Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is establishing a program for the training and certification of individuals as wetland delineators. The intent of the Wetland Delineator Certification Program (WDCP) is: (1) To improve the quality and consistency of wetland delineations submitted to the Corps, and (2) to streamline the regulatory process by developing procedures for expediting review and consideration of delineations submitted by certified delineators. We are publishing this proposed rule today to provide the public the opportunity to assist us in the development of the WDCP.

DATES: Written comments must be submitted on or before April 13, 1995.

ADDRESSES: Written comments must be submitted to: The Chief of Engineers, United States Army Corps of Engineers. ATTN: Ms. Karen Kochenbach, CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Kochenbach or Mr. Sam Collinson at the Office of the Chief of Engineers at (202) 272-0199.

SUPPLEMENTARY INFORMATION:

Background

The Corps regulates activities involving the discharge of dredged or fill material into waters of the United States, including wetlands, pursuant to Section 404 of the Clean Water Act (CWA). In accordance with Section 307(e) of the Water Resources Development Act of 1990 (WRDA 90), the Corps is establishing the WDCP. Section 307 (e) of WRDA 90 authorizes the Secretary of the Army to establish a program for the training and certification of individuals as wetland delineators. Pursuant to this authority, the Corps conducted demonstration projects in the Baltimore, Jacksonville, and Seattle districts.

The Wetland Delineator Certification Program (WDCP) was initially announced in the **Federal Register** on December 30, 1992 (57 FR 62312). This notice introduced the WDCP and provided specifics on participation in the three demonstration projects. On