

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 would 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.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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation. There are no expected environmental consequences of the

action that would require further analysis and documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ 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 the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. From 6:30 a.m. on July 15, 2004, until 9 p.m. on October 15, 2004, in § 117.869, suspend paragraph (a) and add a new paragraph (d) to read as follows:

§ 117.869 Columbia River.

* * * * *

(d) The draws of the Interstate 5 Bridges, mile 106.5, between Portland, OR, and Vancouver, WA, need not open for the passage of vessels from 6:30 a.m. on July 15, 2004, to 9 p.m. on August 6, 2004, and at no other time until 9 p.m. on October 15 except for scheduled openings on signal at 9 p.m. on August 6 and 20, September 3 and 17, and October 1, 2004.

Dated: February 6, 2004.

Jeffrey M. Garrett,

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

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BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD13-04-003]

RIN 1625-AA09

Drawbridge Operation Regulations; Willamette River, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Commander, Thirteenth Coast Guard District, is temporarily changing the regulation governing the Broadway Bridge, mile 11.7, Willamette River at Portland, Oregon, so that the bridge need not open for vessel traffic unless 24 hours notice is provided from

February 27 through November 15, 2004. Additionally, the change sets forth periods within this time frame, during which the bridge may remain closed to vessel traffic. This temporary rule will accommodate painting and repair of the bascule span.

DATES: This rule is effective from 7 a.m. on February 27 through 11 p.m. on November 15, 2004.

ADDRESSES: Documents referred to in this rule are available for inspection or copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Austin Pratt, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, telephone (206) 220-7282.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule is being promulgated without an NPRM due to the short time between the date the request for this change was submitted to the Coast Guard and the start date of the scheduled maintenance and repairs. In addition, this temporary schedule has been coordinated with the waterway users, and should not cause a great disruption in the bridge's current usage. Currently, The drawspan averages only 2 to 3 openings a week, usually for grain ships. The Columbia River Pilots are able to give 24 hours notice of arrivals and departures, and most other vessels plying this reach of the Willamette River are able to pass the Broadway Bridge with its drawspan closed.

Good Cause for Making Rule Effective in Less Than 30 days

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 Coast Guard received the request less than 30 days prior to the scheduled painting and repair project. Delaying the effective date of this rule would be contrary to the public interest because the repair and maintenance require the bridge to be closed. This event has been coordinated with the waterway users. It is similar to other temporary operations authorized for this

bridge in the past, which drew no objections from waterway users.

Background and Purpose

The Multnomah County Bridge Section requested a temporary change to the operation of the Broadway Bridge, mile 11.7, Willamette River at Portland, Oregon, in order to complete a major rehabilitation project that includes painting and repairing the steel truss double-leaf bascule span. The span provides 87 feet vertical clearance above Portland datum 0.0 in the closed position. A work platform in place, reduces the normal vertical clearance by three feet.

The drawspan averages only 2 to 3 openings a week, usually for grain ships. The Columbia River Pilots are able to give 24 hours notice of arrivals and departures without inconvenience. Most other vessels plying this reach of the Willamette River are able to pass the Broadway Bridge with its drawspan closed. Presently, the draw opens on signal except that it need not open from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday. These weekday closed periods do not apply to New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

Discussion of Rule

This temporary rule changes the operation of the Broadway Bridge from 7 a.m. on February 27 through 11 p.m. on November 15, 2004. During that time period, the bridge need not open for vessel traffic unless 24 hours notice is provided. In addition, the bridge need not open during the following periods in 2004: February 27 through March 2; March 4 through March 6; March 9 through March 11; March 13 through March 17; March 19 through March 23; March 25 through March 27; March 29 through April 1; April 3 through April 6; April 8 through April 10; April 12 through April 15; April 17 through April 21; and April 23 through April 26.

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).

This conclusion is based on the fact that the majority of vessels plying the river will not be hindered by this

change because most of the commercial and recreational vessels can pass the span without an opening. Grain ships bound for a facility just above the Broadway Bridge are able to coordinate movements with the temporary operations of the bridge.

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 would not have a significant economic impact on a substantial number of small entities. There are no known small entities affected by this rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), 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. No assistance was requested.

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 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 economically significant and does not concern an environmental risk to health or risk to safety that may 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 would 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. Therefore, this rule is categorically excluded, under

figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation. There are no known effects of this rule that would warrant further analysis and documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. From 7 a.m. on February 27 through 11 p.m. on November 15, 2004, in § 117.897, paragraphs (a)(1) and (a)(2) are suspended and a new paragraph (a)(5) is temporarily added to read as follows:

§ 117.897 Willamette River.

(a) * * *

(5)(i) The draws shall open on signal except that from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday the draws of the Steel (upper deck only), Burnside, Morrison, and Hawthorne Bridges need not open for the passage of vessels. These closed periods are not effective on New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. At least one hour's notice shall be given for openings of the Steel Bridge (upper deck only), Burnside Bridge and Morrison Bridge, Monday through Friday, from 8 a.m. to 5 p.m. At all other times at least two hours notice shall be given by marine radio, telephone, or other means to the drawtender at the Hawthorne Bridge for vessels bound downstream. During Rose Festival Week or when the water level reaches and remains above +12 feet, the draws will open on signal without advance notice, except during the normal closed periods identified in this paragraph.

(ii) The Broadway Bridge need not open for the passage of vessels from 7 a.m. on February 27 to 11 p.m. on November 15, 2004, unless at least 24 hours notice is provided, except that the draw need not open during the following periods in 2004, each period beginning at 7 a.m. of the first day until 11 p.m. of the final day: February 27-March 2; March 4-March 6; March 9-March 11; March 13-March 17; March

19-March 23; March 25-March 27; March 29-April 1; April 3-April 6; April 8-April 10; April 12-April 15; April 17-April 21; and April 23-April 26.

(iii) Opening signals are as follows:

(A) Broadway Bridge, mile 11.7, two prolonged blasts followed by one short blast.

(B) Steel Bridge, mile 12.1, one prolonged blast followed by one short blast.

(C) Burnside Bridge, mile 12.4, one prolonged blast followed by two short blasts.

(D) Morrison Bridge, mile 12.8, one prolonged blast followed by three short blasts.

(E) Hawthorne Bridge, mile 13.1, one prolonged blast followed by four short blasts.

* * * * *

Dated: February 3, 2004.

Jeffrey M. Garrett,

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

[FR Doc. 04-3622 Filed 2-18-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-04-024]

Drawbridge Operation Regulations; Treasure Island Causeway, Gulf Intracoastal Waterway, Pinellas County, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Treasure Island Causeway Bridge across the Gulf Intracoastal Waterway, mile 119.0, Pinellas County, Florida. This deviation allows the west bascule of the bridge to remain in the closed position from 8 a.m., March 9, 2004, until 5 p.m., April 30, 2004. Only single leaf openings will be provided during this period in order to effect repairs.

DATES: This deviation is effective from 8 a.m., on March 9, until 5 p.m., on April 30, 2004.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07-04-024] will become part of this docket and will be

available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Miami, Florida 33131-3050 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

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

SUPPLEMENTARY INFORMATION: The Treasure Island Causeway Bridge across the Gulf Intracoastal Waterway, Pinellas County, Florida, is a bascule bridge with a vertical clearance of 8 feet above mean high water (MHW) measured at the fenders in the closed position with a horizontal clearance of 80 feet. The current operating regulation in 33 CFR 117.287(g) requires that the bridge shall open on signal, except that from 7 a.m. to 7 p.m., the draw need open only on the hour, quarter hour, half hour and three quarter hour. From 11 p.m. to 7 a.m., the draw shall open on signal if at least 10 minutes advance notice is given. On February 3, 2004, the bridge owner, City of Treasure Island, requested a deviation from the current operating regulations to allow the owner and operator to provide single leaf operations, to facilitate repairs. The Commander, Seventh Coast Guard District has granted a temporary deviation from the operating requirements listed in 33 CFR 117.287(g) to complete repairs to the bridge. Under this deviation, the Treasure Island Causeway Bridge, across the Gulf Intracoastal Waterway, mile 119.0, Pinellas County, Florida, need only provide single leaf openings from March 9 until April 30, 2004.

Dated: February 9, 2004.

Greg Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 04-3620 Filed 2-18-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-03-118]

RIN 1625-AA09

Drawbridge Operation Regulations; Miami River, Miami-Dade County, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulations of the Miami