

I. Background

Currently, a surviving spouse who is a member of the armed forces on active duty for a period of more than 30 days at the time the other active duty military member spouse dies and subsequently separates from active duty, is ineligible for the TDP survivor benefit. The surviving active duty spouse is ineligible because he or she was not enrolled in the program at the time of the spouse's death. Active duty members are not eligible for enrollment in the TDP. There are many dual military couples in the armed forces and the authority provided by section 713 of the NDAA for FY06 will permit the Department to expand the eligibility for survivor benefits under the TDP to include the active duty spouse of a member who dies while on active duty for a period of more than 30 days who subsequently separates from active duty during the three-year survivor period.

II. Regulatory Procedures

Executive Order (EO) 12866

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of \$100 million or more on the national economy or which would have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this interim final rule is not subject to any of these requirements. This rule, although not economically significant under Executive Order 12866, is a significant rule under Executive Order 12866 and has been reviewed by the Office of Management and Budget. This rule is being issued as an interim final rule, with comment period, as an exception to our standard practice of soliciting public comments prior to issuance. This is because the effective date of the changes to the TDP contained in section 713 of the NDAA for FY06 was January 6, 2006. This interim rule would amend the CFR to allow the TDP to conform to the new statutory authority. Based on these statutory requirements, the Assistant Secretary of Defense (Health Affairs) has determined that following the standard

practice in this case would be unnecessary, impractical and contrary to the public interest. Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the final rule.

Paperwork Reduction Act

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511).

We have examined the impact(s) of the interim final rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Dental program, Dental health, Health care, Health insurance, Military personnel.

■ For the reasons set out in the preamble, the Department of Defense amends 32 CFR part 199 as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.13 is amended by revising paragraphs (c)(3)(ii)(E)(2), to read as follows:

§ 199.13 TRICARE dental program.

- (c) * * *
- (3) * * *
- (ii) * * *
- (E) * * *

(2) *Continuation of eligibility.* Eligible dependents of active duty members while on active duty for a period of more than 30 days and eligible dependents of members of the Ready Reserve (i.e., Selected Reserve or Individual Ready Reserve, as specified in 10 U.S.C. 10143 and 10144(b) respectively), shall be eligible for continued enrollment in the TDP for up to three (3) years from the date of the member's death, if, on the date of the death of the member, the dependent is enrolled in the TDP, or is not enrolled by reason of discontinuance of a former enrollment under paragraphs

(c)(3)(ii)(E)(4)(ii) and (c)(3)(ii)(E)(4)(iii) of this section, or is not enrolled because the dependent was under the minimum age for enrollment at the time of the member's death, or is not qualified for enrollment because the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days but subsequently separates or is discharged from active duty. This continued enrollment is not contingent on the Selected Reserve or Individual Ready Reserve member's own enrollment in the TDP. During the three-year period of continuous enrollment, the government will pay both the Government and the beneficiary's portion of the premium share.

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Dated: November 13, 2006.

L.M. Bynum,

*OSD Federal Register Liaison Officer,
Department of Defense.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08-06-002]

RIN 1625-AA09

Drawbridge Operation Regulation; Missouri River, Iowa, Kansas, Missouri

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the Missouri River drawbridge regulations covering Iowa, Kansas, and Missouri. The revisions will have the bridges open on signal except during the winter season which will require 24 hours advanced notice. These revisions to the regulations will reduce delays of the vessels transiting through these States on the Missouri River.

DATES: This rule is effective on December 18, 2006.

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 CGD8-06-002 and are available for inspection or copying at room 2.107f, in the Robert A. Young Federal Building, Eighth Coast Guard District, 1222 Spruce Street, St. Louis, Missouri 63103-2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Commander (dwb), Eighth

Coast Guard District, Bridge Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, (314) 269-2378.

SUPPLEMENTARY INFORMATION:

Regulatory History

On May 25, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Missouri River, Iowa, Kansas, Missouri in the **Federal Register** (71 FR 30106). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Coast Guard is revising these regulations so vessels may pass the bridge without delay. The Coast Guard reviewed the history of civil penalty actions for failure of the Missouri River drawbridges to open for navigation. Meetings were held with the bridge owner and vessel operators to determine the cause for not opening the bridge draw on signal. A procedure was incorporated in the regulations to help reduce the number of vessel delays caused by failure to open the bridge on signal. Experience has shown the procedure was never implemented and vessel delays were not reduced. Therefore, §§ 117.411(b) and 117.687(b), which describe the procedure for operation of the A-S-B Highway and Railroad Bridge at Mile 365.6, are to be eliminated. This drawbridge was never operated in the manner described. It will open on signal as described in §§ 117.411 and 117.687. In addition, the Coast Guard determined that changes were needed to correct inaccuracies in State-related drawbridge operation regulations for § 117.407 (Iowa), § 117.411 (Kansas), and § 117.687 (Missouri).

Discussion of Comments and Changes

There were no comments to the proposed regulatory text.

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.

The Coast Guard expects that these changes will have a minimal economic

impact on commercial traffic operating on the Missouri River. The procedure is already in practice at the bridges, and the change to the CFR documents the procedure.

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. This rule is neutral to all business entities since it affects only how the vessel operators request bridge openings.

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 this rule so that they could better evaluate its effects on them and participate in the rulemaking.

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 affect 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 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 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 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. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under ADDRESSES.

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. Revise § 117.407 to read as follows:

§ 117.407 Missouri River.

See § 117.691, Missouri River listed under Nebraska.

■ 3. Revise § 117.411 to read as follows:

§ 117.411 Missouri River.

The draws of the bridges across the Missouri River shall open on signal; except during the winter season

between the date of closure and the date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24 hours advance notice is given.

■ 4. Revise § 117.687 to read as follows:

§ 117.687 Missouri River.

The draws of the bridges across the Missouri River shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24 hours advance notice is given.

Dated: October 25, 2006.

J.R. Whitehead,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–06–021]

RIN 1625–AA09

Drawbridge Operation Regulation; St. Croix River, Prescott, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is changing the regulation governing the Prescott Highway Bridge, across the St. Croix River at Mile 0.3, at Prescott, Wisconsin. Under the rule, the drawbridge need not open for river traffic and may remain in the closed-to-navigation position from November 1, 2006 to April 1, 2007. This rule allows the bridge owners to make necessary repairs to the bridge.

DATES: The rule is effective November 1, 2006 to April 1, 2007.

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 [CGD08–06–021] and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Commander (dwb), Eighth Coast Guard District, Bridge Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 21, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; St. Croix River, Prescott, WI in the **Federal Register** (71 FR 48498). We received no comment letters on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

On March 26, 2005, the Wisconsin Department of Transportation requested a temporary change to the operation of the Prescott Highway Bridge across the St. Croix River, Mile 0.3, at Prescott, Wisconsin, to allow the drawbridge to remain in the closed-to-navigation position for a 5-month period while the electrical and hydraulic systems are overhauled. Navigation on the waterway consists of both commercial (excursion boat) and recreational watercraft, which may be minimally impacted by the closure period. Currently, the draw opens on signal for the passage of river traffic from April 1 to October 31, 8 a.m. to midnight, except that from midnight to 8 a.m. the draw shall open on signal if notification is made prior to 11 p.m. From November 1 through March 31, the draw shall open on signal if at least 24 hours notice is given. The Wisconsin Department of Transportation requested the drawbridge be permitted to remain closed to navigation from November 1, 2006 to April 1, 2007.

Discussion of Comments and Changes

The Coast Guard received no comment letters. No changes were made to this final rule.

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).

The Coast Guard expects this temporary change to the operation of the Prescott Highway Bridge to have minimal economic impact on commercial traffic operating on the St. Croix River such that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary.