

Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203;

(2) By fax to MSHA, Office of Standards, Regulations, and Variances, 703-235-5551; or

(3) By electronic mail to [comments@msha.gov](mailto:comments@msha.gov).

**FOR FURTHER INFORMATION CONTACT:**

Carol J. Jones, 703-235-1910.

**SUPPLEMENTARY INFORMATION:** On April 9, 1998 (63 FR 17492) MSHA published a proposed rule to reduce the risks to underground coal miners of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter (dpm). DPM is a very small particle in diesel exhaust. Underground miners are exposed to far higher concentrations of this fine particulate than any other group of workers.

The post-hearing comment period for the proposed rule addressing diesel particulate matter exposure of underground coal miners was scheduled to close April 30, 1999 (64 FR 7144).

However, in response to requests from the public for additional time to prepare their comments, the record for the proposed rule will remain open until July 26, 1999. This provides a total of 15 months from the date of publication for the public to comment on the proposed rule.

Dated: April 21, 1999.

**Marvin W. Nichols, Jr.,**

*Deputy Assistant Secretary for Mine Safety and Health.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD13-99-005]

RIN 2115 AE47

#### **Drawbridge Operations Regulations; Duwamish Waterway and Lake Washington Ship Canal, WA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the operating regulations for the city drawbridges across the Lake Washington Ship Canal and the state drawbridge across the Duwamish Waterway in Seattle, Washington, by deleting Columbus Day from federal holidays on which the operating schedule does not accommodate the

peak hours of roadway traffic with scheduled closed periods of the drawspans. This amendment would apply the same operating regulations that are specified for Monday through Friday to Columbus Day. Roadway traffic does not decrease significantly on Columbus Day as it does on other federal holidays. This amendment would apply to Columbus Day the same draw closed periods that are provided for non-holidays Monday through Friday.

**DATES:** Comments must reach the Coast Guard on or before June 28, 1999.

**ADDRESSES:** You may mail comments to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067 or deliver them to room 3510 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays.

**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, or arguments. Persons submitting comments should identify this rulemaking (CGD 13-99-005) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change the proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Coast Guard including the reasons why a hearing would be beneficial. If it 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**.

#### **Background and Purpose**

The purpose of the proposed changes to 33 CFR 117.1041 and 117.1051 is to alleviate commuter traffic congestion by removing Columbus Day from the existing federal holiday exemption for the dual First Avenue South

Drawbridges across the Duwamish Waterway, mile 2.5, and the drawbridges across the Lake Washington Ship Canal east of the Chittenden Locks. These bridges are the Ballard Bridge at mile 1.1, the Fremont Bridge at mile 2.6, the University Bridge at mile 4.3, and the Montlake Bridge at mile 5.2. The regulations which are currently in effect authorize various weekday closed periods during the hours of heavy commuting so that openings for vessels will not worsen traffic congestion. These closed periods do not apply on weekends or federal holidays because the affected streets are not as heavily traveled on those holidays. Columbus Day does not warrant this exemption. Many employers in the Seattle area do not honor this holiday and, as a result, the volume of commuter traffic does not appreciably diminish on that day. Openings for the passage of vessels on this day at times of peak traffic can cause significant delay to street traffic. The proposed amendment will enable Columbus Day to be treated as any other weekday with regard to opening the subject drawspans. The proposed amendment also would delete reference to notification of the Seattle City Engineer for emergency openings of the Lake Washington Ship Canal bridges. Emergency openings shall be provided in accordance with 33 CFR 117.31. This part of the proposed amendment reflects the Coast Guard's policy that notification made to the bridge tender is sufficient for declaration of emergency requiring immediate opening of the draw.

#### **Discussion of Proposed Rule**

By specifically removing Columbus Day from the exempt category for federal holiday in § 117.1041 (a)(1) and § 117.1051 (d)(2), traffic congestion will be alleviated by preventing openings for vessels of less than 5000 gross tons during the normal Monday through Friday periods when the First Avenue South drawbridges need not be opened for the passage of vessels and similarly for vessels of less than 1000 gross tons in the case of the city drawbridges across the Lake Washington Ship Canal. In contrast to other federal holidays, Columbus Day does not present a significant reduction in commuter traffic. Traffic remains high as on any other weekday peak period. Under the proposed amendment, the subject drawbridges would not have to open on signal at any time during the day as is currently required on Columbus Day. Also requests for emergency openings of the Lake Washington Ship Canal drawspans would be obtained by simply

notifying the drawtender on duty as provided by § 117.31. The requirement to make such a request with additional notification of the city engineer would be removed from the above-cited paragraph.

### Regulatory Evaluation

This proposed rule is not a significant regulatory action under 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 not been reviewed 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 FR11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The proposed rule would improve commuter traffic flow and enhance navigational safety by simplifying the procedure for requesting an emergency opening of drawspans.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictional with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act that this proposed rule, if adopted, will not have a significant impact on a substantial number of small entities. If,

however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant impact on your business or organization, please submit a comment (see Addresses) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

### Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

### Federalism

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

### Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2-1, paragraph 32(e) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this proposed rule.

### List of Subjects in 33 CFR Part 117

Bridges.

### 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. Revise § 117.1041(a)(1) to read as follows:

#### § 117.1041 Duwamish Waterway.

(a) \* \* \*

(1) From Monday through Friday, except all federal holidays but Columbus Day, the draws of the First Avenue South Bridges, mile 2.5, need not be opened for the passage of vessels from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m., except: The draws shall open at any time for a vessel of 5000 gross tons and over, a vessel towing a vessel of 5000 gross tons and over, and a vessel proceeding to pick up for towing a vessel of 5000 gross tons and over.

\* \* \* \* \*

3. Revise § 117.1051(d)(2) to read as follows:

#### § 117.1051 Lake Washington Ship Canal.

\* \* \* \* \*

(d) \* \* \*

(2) The draws need not open from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. Monday through Friday, except all federal holidays but Columbus Day, for any vessel of less than 1000 gross tons, unless the vessel has in tow a vessel of 1000 gross tons or over.

\* \* \* \* \*

Dated: April 19, 1999.

**Paul M. Blainey,**

*Rear Admiral, U.S. Coast Guard Commander,  
13th Coast Guard District.*

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