

Department of the Navy as to whether a proposed regulatory requirement originated by it comes within the purview of this paragraph and the corresponding provisions of 32 CFR part 336, and as to whether inviting public comment is warranted, shall be conclusive and final.

(b) *Classes of documents affected.* Each proposed regulation or other document of a class described in § 701.64(a) (or a proposed revision of an adopted document of any of those classes) which would "originate" within the Department of the Navy a requirement of general applicability and future effect for implementing, interpreting, or prescribing law or policy, or practice and procedure requirements constituting authority for prospective actions having substantial and direct impact on the public, or a significant portion of the public, must be evaluated to determine whether inviting public comment prior to issuance is warranted. Documents that merely implement regulations previously issued by higher naval authorities or by the Department of Defense will not be deemed to "originate" requirements within the purview of this section. If a proposed document is within the purview of this section, publication to invite public comment will be warranted unless, upon evaluation, it is affirmatively determined both that a significant and legitimate interest of the Department of the Navy or the public will be served by omitting such publication for public comment, and that the document is subject to one or more of the following exceptions:

(1) It pertains to a military or foreign affairs function of the United States which has been determined under the criteria of an Executive Order or statute to require a security classification in the interests of national defense or foreign policy;

(2) It relates to naval management, naval military or civilian personnel, or public contracts (e.g. Navy Procurement Directives), including nonappropriated fund contracts;

(3) It involves interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(4) It is determined with regard to the document, for good cause, that inviting the public comment is impracticable, unnecessary, or contrary to the public interest.

(c) *Procedures*—(1) *Normal case.* Unless the official having cognizance of a proposed regulatory document determines under the criteria of § 701.66(b) that inviting public

comment is not warranted, he or she shall cause it to be published in the **Federal Register** with an invitation for the public to submit comments in the form of written data, views, or arguments during a specified period of not less than 30 days following the date of publication. An opportunity for oral presentation normally will not be provided, but may be provided at the sole discretion of the official having cognizance of the proposed directive if he or she deems it to be in the best interest of the Department of the Navy or the public to do so. After careful consideration of all relevant matters presented within the period specified for public comment, the proposed document may be issued in final form. After issuance, the adopted document, and a preamble explaining the relationship of the adopted document to the proposed and the nature and effect of public comments, shall be published in the **Federal Register** for guidance of the public.

(2) *Where public comment is not warranted.* The official having cognizance of a proposed document within the purview of this paragraph shall, if he or she determines that inviting public comment concerning the document is not warranted under the criteria of § 701.66(b), incorporate that determination, and the basis therefor, in the document when it is issued or submitted to a higher authority for issuance. After issuance, such document shall be published in the **Federal Register** for the guidance of the public, if required under § 701.64(b).

§ 701.67 Petitions for issuance, revision, or cancellation of regulations affecting the public.

In accordance with the provisions of 32 CFR part 336, the Department of the Navy shall accord any interested person the right to petition in writing, for the issuance, revision, or cancellation of regulatory document that originates, or would originate, for the Department of the Navy, a policy, requirement, or procedure which is, or would be, within the purview of § 701.66. The official having cognizance of the particular regulatory document involved, or having cognizance of the subject matter of a proposed document, shall give full and prompt consideration to any such petition. Such official may, at his or her absolute discretion, grant the petitioner an opportunity to appear, at his or her own expense, for the purpose of supporting the petition, if this is deemed to be compatible with orderly conduct of public business. The petitioner shall be advised in writing of the disposition, and the reasons for the

disposition, of any petition within the purview of this section.

Dated: April 12, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00-10476 Filed 4-26-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-99-029]

RIN 2115-AE47

Drawbridge Operation Regulations: Merrimack River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations for the Newburyport US1 Bridge, mile 3.4, across the Merrimack River between Newburyport and Salisbury, Massachusetts. The bridge owner asked the Coast Guard to change the regulations to allow the bridge to open only on the hour and half hour, from Memorial Day through Labor Day. This final rule is expected to help reduce vehicular traffic delays by scheduling bridge opening times while still meeting the reasonable needs of navigation.

DATES: This rule is effective May 30, 2000.

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 (CGD01-99-029) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 7, 2000, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Merrimack River, Massachusetts, in the **Federal Register** (65 FR 1077). We received one comment letter in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The Newburyport US1 Bridge, mile 3.4, across the Merrimack River has a vertical clearance of 35 feet at mean high water and 42 feet at mean low water in the closed position. The current regulations in 33 CFR 117.605(a) require the bridge to open on signal from May 1 through November 15, from 6 a.m. to 10 p.m. At all other times the draw must open on signal if at least a one-hour advance notice is given by calling the number posted at the bridge.

The bridge owner, the Massachusetts Highway Department (MHD), asked the Coast Guard to change the regulations to allow scheduled opening times to help alleviate vehicular traffic delays on Route 1 that occur from Memorial Day through Labor Day. During the summer months the bridge opens more frequently for vessel traffic. The traffic delays on Route 1 prompted the request to provide relief to help reduce the traffic delays during the summer months.

The Coast Guard, in response to the bridge owner's request for assistance, published a notice of temporary deviation from the operating regulations (64 FR 25438) on May 12, 1999. The purpose of the deviation was to test an alternate schedule for bridge openings for a period of 90 days from June 3, 1999, through August 31, 1999. The bridge operating schedule during the test period was:

Monday through Friday, from 6 a.m. to 10 p.m., the bridge opened once an hour, on the half hour.

Saturday and Sunday, from 11 a.m. to 3 p.m., the bridge opened once an hour, on the half hour. From 6 a.m. to 11 a.m. and 3 p.m. to 10 p.m., the bridge opened two times an hour, on the hour and half hour.

At all other times, the bridge opened on signal after a one-hour notice was given by calling the number posted at the bridge.

The Coast Guard evaluated the bridge opening log data for the past three years as well as the data collected during the 90 day test period in 1999. The data indicated that June, July and August are the months that have the greatest number of bridge openings with the greater percentage of the bridge openings occurring on the weekends.

TEST PERIOD 1999

Month	Total openings	Weekend openings	Percent on weekends
June	307	205	67
July	322	193	60
August ...	305	137	45

MONTHLY TOTAL BRIDGE OPENINGS

	1997	1998	1999
April	3	17	34
May	95	155	202
June	288	190	307
July	310	387	322
August ...	334	350	305
September	226	294	250
October	197	149	169

The Coast Guard has determined that scheduled bridge openings on the hour and half hour from Memorial Day through Labor Day, 6 a.m. to 10 p.m., should help alleviate the traffic delays on Route 1 and still meet the reasonable needs of navigation.

The time period for scheduled bridge openings, Memorial Day through Labor Day, was selected because it is the time period when vehicular traffic on Route 1 is the heaviest and the frequency of bridge openings are the greatest.

Discussion of Comments and Changes

The Coast Guard received one comment letter in response to the notice of proposed rulemaking and no changes have been made to this final rule. The comment letter questioned if the half-hour time interval between bridge openings would be enough time for the vehicular traffic to return to normal flow. The Coast Guard evaluated the bridge opening duration times and the traffic recovery time after bridge openings during the 90-day test in the summer of 1999. The average bridge opening time during the 1999, test period was five minutes with an additional four minutes to restore normal traffic flow over the bridge. We believe, as a result of the data and observations made during the test period, that openings on request, on the hour and half-hour, should reduce vehicular traffic delays on Route 1 and still meet the reasonable needs of navigation.

Regulatory Evaluation

This rule is not a "significant regulatory 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. 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 Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridge will still open on signal for marine traffic two times each hour, on the hour and half hour, from 6 a.m. to

10 p.m., Memorial Day through Labor Day.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. "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 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. This conclusion is based on the fact that the bridge opens only for large recreational sail boats and power boats. Most vessels can pass under the bridge without a bridge opening as a result of the high vertical clearance of 35 feet at mean high water and 42 feet at mean low water.

The owners of the larger vessels may be required, depending on the stage of the tide, to wait for bridge openings for up to 25 minutes in the event that they miss a scheduled bridge opening. The impacts are believed not to be significant because the bridge will still open on signal for marine traffic two times each hour, on the hour and half hour, 6 a.m. to 10 p.m., Memorial Day through Labor Day.

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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

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 does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. 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 set out 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; 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. Section 117.605(a) is revised to read as follows:

§ 117.605 Merrimack River

(a) The draw of the Newburyport US1 Bridge, mile 3.4, shall operate as follows:

(1) From May 1 through November 15, from 6 a.m. to 10 p.m., the draw shall open on signal; except that, from Memorial Day through Labor Day, from 6 a.m. to 10 p.m., the draw shall open on signal only on the hour and half hour.

(2) At all other times the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

* * * * *

Dated: April 13, 2000.

Robert F. Duncan,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 00-10455 Filed 4-26-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-00-126]

Drawbridge Operation Regulations; Fort Point Channel, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation and request for comments.

SUMMARY: The Commander, First Coast Guard District has issued a temporary 90 day deviation from the existing drawbridge operation regulations for the Northern Avenue Bridge, mile 0.1, at Boston, Massachusetts. This deviation will require the bridge to open on signal from 6 a.m. to 8 p.m. and from 8 p.m. to 6 a.m. after a two-hour advance notice is given. The bridge presently does not open for vessel traffic between 8 p.m. and 6 a.m. This deviation is necessary in order to test an alternate drawbridge operation schedule.

DATES: This deviation is effective from June 7, 2000 through September 4, 2000. Comments must reach the Coast Guard on or before September 30, 2000.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110-3350, or deliver them at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364.

FOR FURTHER INFORMATION CONTACT: Mr. John McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this notice by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this notice (CGD01-00-126), indicate the specific section of this document to which each

comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Background and Purpose

The Northern Avenue Bridge, mile 0.1, across the Fort Point Channel has a vertical clearance of 7 feet at mean high water and 17 feet at mean low water in the closed position. The existing operating regulations in 33 CFR 117.599 require the bridge to open on signal from 6 a.m. to 8 p.m. From 8 p.m. to 6 a.m., the bridge need not open for the passage of vessels.

The Coast Guard received a request from a commercial vessel operator requesting a change to the operating regulations for the Northern Avenue Bridge. The commercial operator has a vessel that can not transit through the bridge without a bridge opening and would like the bridge to open for vessel traffic during the 8 p.m. to 6 a.m. time period when the bridge is normally closed.

Under the test deviation, the Northern Avenue Bridge, mile 0.1, across the Fort Point Channel at Boston, from June 7, 2000 through September 4, 2000, will continue to open on signal from 6 a.m. to 8 p.m. From 8 p.m. to 6 a.m., the bridge will open on signal if at least a two-hour notice is given by calling the number posted at the bridge.

It is expected that this deviation will meet the present needs of navigation.

This deviation from the normal operating regulations is authorized under 33 CFR 117.43.

Dated: April 18, 2000.

G.N. Naccara,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-00-016]

Drawbridge Operation Regulations; Mianus River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation and request for comments.