

because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which

is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 12, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-03-026]

RIN 1625-AA09

Drawbridge Operation Regulations; Charles River, Dorchester Bay, and Saugus River, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations governing the operation of three bridges, the Craigie Bridge, mile 1.0, across the Charles River, the William T. Morrissey Boulevard Bridge, mile 0.0, across Dorchester Bay, and the General Edwards SR1A Bridge, mile 1.7, across the Saugus River, all in Massachusetts. This proposed rule would require an eight-hour advance notice for openings during the time periods at night when these bridges have historically received few requests to open. This action is expected to meet the reasonable needs of navigation while relieving the bridge owner from the burden of crewing these bridges at periods when they seldom open for navigation.

DATES: Comments must reach the Coast Guard on or before August 25, 2003.

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

Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-03-026), 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. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background

The owner of the bridges, the Metropolitan District Commission (MDC), requested a change to the operating regulations for three of their bridges, the Craigie Bridge, the William T. Morrissey Boulevard Bridge, and the General Edwards SR1A Bridge. The requested change to the drawbridge operation regulations would require an eight-hour advance notice during various time periods when these bridges have historically received few requests to open.

The Coast Guard reviewed the drawbridge opening logs submitted by the bridge owner, and determined that the bridges had few requests to open during the time periods the bridge owner has requested the eight-hour advance notice requirement. This

proposed change will apply to the following bridges and during the following times:

Craigie Bridge

The MDC Craigie Bridge, mile 1.0, across the Charles River has a vertical clearance of 5 feet at mean high water and 15 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.591(e). This proposed rule would allow the bridge owner to require an eight-hour advance notice for openings midnight to 8 a.m., during April, May, October, and November.

William T. Morrissey Boulevard Bridge

The William T. Morrissey Boulevard Bridge, at mile 0.0, across Dorchester Bay has a vertical clearance of 12 feet at mean high water and 22 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.597. This proposed rule would allow the bridge owner to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., during April, May, and October.

General Edwards SR1A Bridge

The General Edwards SR1A Bridge, at mile 1.7, across the Saugus River has a vertical clearance of 27 feet at mean high water and 36 feet at mean low water in the closed position. The existing operating regulations listed at 33 CFR 117.618(b). This proposed rule would allow the bridge owner to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., April through November.

The Coast Guard believes this rule is reasonable because all three bridges historically receive very few requests, if any, to open during the time periods they will require an eight-hour advance notice for bridge openings.

Discussion of Proposal

This proposed change would amend 33 CFR 117.591, which governs operation of the Metropolitan District Commission Craigie Bridge, by adding a new paragraph paragraph (e)(3) to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., April, May, October, and November.

This proposed change would revise 33 CFR 117.597, which governs the operation of the William T. Morrissey Boulevard Bridge, by adding the requirement for an eight-hour advance notice from midnight to 8 a.m., for April, May, and October.

This proposed change would also amend 33 CFR 117.618, which governs the operation of the General Edwards

SR1A Bridge, by revising paragraph (b) to add the requirement for an eight-hour advance notice for bridge openings midnight to 8 a.m., April through November, and from 4 p.m. to 8 a.m. from December through March.

The language in the existing regulation regarding bridge openings for public vessels of the United States, state and local vessels used for public safety will be removed. That requirement is now listed under 33 CFR 117.31.

Regulatory Evaluation

This proposed 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 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.

This conclusion is based on the fact that the bridges normally receive few requests to open during the times the advance notice will be required.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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 section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the normally receive few requests to open during times the advance notice will be required.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed 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 proposed 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 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 considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1d, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this 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 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; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.591 is amended by adding a new paragraph (e)(3) to read as follows:

§ 117.591 Charles River.

* * * * *

(e) * * *

(3) From midnight to 8 a.m., April, May, October, and November, the draw shall open on signal after at least an eight-hour advance notice is given.

* * * * *

3. Section 117.597 is revised to read as follows:

§ 117.597 Dorchester Bay.

The draw of the William T. Morrissey Boulevard Bridge, mile 0.0, at Boston, shall operate as follows:

(a) From 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not open for the passage of vessel traffic.

(b) The draw shall open on signal from April 16 through May 31, from 8 a.m. through midnight, except as provided in paragraph (a) of this section. From midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings.

(c) The draw shall open on signal at all times from June 1 through September 30, except as provided in paragraph (a) of this section.

(d) The draw shall open on signal from October 1 through October 14, 8 a.m. through midnight, except as provided in paragraph (a) of this section. From midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings.

(e) The draw shall open on signal from October 15 through April 15, after at least a 24 hours notice is given, except as provided in paragraph (a) of this section.

4. Section 117.618 is amended by revising paragraph (b) to read as follows:

§ 117.618 Saugus River.

* * * * *

(b) The draw of the General Edwards SR1A Bridge, mile 1.7, between Revere and Lynn, shall open on signal; except that, from April 1 through November 30, from midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings, and at all times from December 1 through March 31, at least an eight-hour advance notice is required for bridge openings.

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Dated: June 13, 2003.

John L. Grenier,

*Captain, Coast Guard, Acting Commander,
First Coast Guard District.*

[FR Doc. 03-15999 Filed 6-25-03; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 334

United States Coast Guard Restricted Area, San Francisco Bay, Yerba Buena Island, San Francisco, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U. S. Army Corps of Engineers is proposing to establish a new Restricted Area in the waters of San Francisco Bay on the east side of Yerba Buena Island, San Francisco, San Francisco County, California. The designation would ensure public safety and satisfy the security, safety, and operational requirements as they pertain to the Coast Guard Group San Francisco on Yerba Buena Island, by establishing an area into which unauthorized vessels and persons may not enter.

DATES: Comments must be submitted on or before July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch at (202) 761-4618 or Mr. Bryan Matsumoto, Corps San Francisco District, at (415) 977-8476.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriation Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the regulations in 33 CFR part 334 by establishing a new Restricted Area at 334.1244, in the waters of San Francisco Bay on the east side of Yerba Buena Island, San Francisco, San Francisco County, California. The points defining the proposed Restricted Area were selected to isolate dock-side and pier face activity that appear to, or potentially present a terrorist threat. Additionally, the Restricted Area would reduce the potential damage to the public in the event of a rapid response by Coast Guard assets for Homeland Defense and Search and Rescue Operations. In addition to the publication of this proposed rule, the San Francisco District Engineer is concurrently soliciting public comment on these proposed rules by distribution of a public notice to all known interested parties.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to security and safety functions of the U.S. Coast Guard and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354), which requires the preparation of a regulatory flexibility analysis for any regulation that will