

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 has determined 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 Tribal submittal that is the subject of this rule is based on counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect on a substantial number of small entities. Accordingly, this rule will ensure that the Navajo Nation will implement existing requirements that OSM previously promulgated. 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 government 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 on the fact that the Tribal submittal which is the subject of this rule is based on 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

OSM determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on any local, State, or Tribal governments or private entities.

List of Subjects in 30 CFR Part 756

Abandoned mine reclamation programs, Indian lands, Surface mining, Underground mining.

Dated: May 21, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter E of the Code of Federal Regulations is amended as set forth below:

**PART 756—INDIAN TRIBE
ABANDONED MINE LAND
RECLAMATION PROGRAMS**

1. The authority citation for part 756 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and Pub. L. 100-71.

2. Section 756.14 is amended by adding paragraph (e) to read as follows:

§ 756.14 Approval of amendments to the Navajo Nation's abandoned mine land plan.

* * * * *

(e) Addition or removal of the following rules, as submitted to OSM on March 2 and 8, 2001, is approved effective July 31, 2001:

Section II, subsections M, 2, 2(a), 2(a)(1), 2(a)(2), and 2(a)(3), noncoal reclamation after certification (removed);

Section II, subsection O, 1, Exclusion of Noncoal Reclamation Sites (removed);

Section II, subsection O, subsection heading "NONCOAL RECLAMATION AFTER CERTIFICATION;"

Section II, subsection O, 1, applicability of subsection O;

Section II, subsections O, 2, 2(a) through 2(c), objectives and priorities;

Section II, subsection O, 3, enhancement of facilities and utilities;

Section II, subsection O, 4, determination of need for activities and construction of specific public facilities and submittal of grant applications;

Section II, subsection O, 5 through 5(h), requirements for grant applications submitted under subsection O.4 to meet;

Section II, subsection O, 6, exclusion of certain noncoal reclamation sites;

Section II, subsection O, 7, land acquisition authority for the noncoal program;

Section II, subsection O, 8, lien requirements;

Section II, subsection O, 9, limited liability;

Section II, subsection O, 10, contractor responsibility; and

Section II, subsection P, subsection heading, "RESERVED" (removed).

[FR Doc. 01-19015 Filed 7-30-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117**

[CGD05-01-007]

RIN 2115-AE47

**Drawbridge Operation Regulations;
New Jersey Intracoastal Waterway,
Cape May Canal**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Cape May Canal Railroad Bridge at the New Jersey Intracoastal Waterway (ICW), mile 115.1, across Cape May Canal, in Cape May, New Jersey. The final rule maintains the bridge in the open position, except that it would close for the crossing of trains and the maintenance of the bridge. The final rule will provide for the reasonable needs of navigation.

DATES: This final rule is effective August 30, 2001.

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 CGD05-01-007 and are available for inspection or copying at the office of the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On March 30, 2001, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, Cape May Canal" in the **Federal Register** (66 FR 17377). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Cape May Canal Railroad Bridge is a swing bridge owned by New Jersey Transit Rail Operations (NJTRO). Under an agreement with NJTRO and Cape May Seashore Lines, Inc. (CSML), CSML is responsible for the reactivation of the rail service, maintenance of the accessories of the bridge and its operation of the swing span. From 1983 until June 1999, train service was

deactivated and bridge tender service discontinued. The swing span was placed in the full open position for vessels in accordance with 33 CFR 117.41. Upon reactivation of bridge tender service in 1999, the draw was required to return to opening on signal at all times. This requirement is included in the general operation regulations at 33 CFR 117.5.

CMSL is currently providing passenger rail service on the 27-mile long rail lines between Tuckahoe and Cape May, New Jersey. There is no train service in the winter so the bridge is unmanned and placed in the full open position. Tourist train service is provided on weekends only in the spring and fall and seven days a week from mid-June until Labor Day. Train service starts at 10 a.m. and ends at 7:30 p.m. After train hours, the bridge is unmanned and placed in the full open position. During train service hours, the bridge is kept in the full open position for vessels and closes only when a train is scheduled to cross.

This final rule formalizes the current operation of the bridge. The final rule will have less impact on navigation than the general operating regulations.

Discussion of Comments and Changes

The Coast Guard received no comments on the NPRM. Since no comments were received and we believe the change is warranted to formalize the current operation of the bridge, the final rule is being implemented without change.

Regulatory Evaluation

This final 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

We reached this conclusion based on the determination that the final rule will provide for greater flow of vessel traffic than the general requirements for the use and operation of drawbridges. Under the general requirements, the drawbridge is required to open promptly upon signal. This permits the bridge to remain closed and open only after a proper signal. The final rule will

require the bridge to remain in the open position, permitting vessels to pass freely. The bridge will close only for the train crossings and bridge maintenance. This final rule will provide for the reasonable needs of navigation, while reducing the burden on the operator.

Small Entities

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

This final rule would affect the following entities, some of which might be small entities: The owners and operators of vessels that desire to transit the waterway and homeowners associations representing property owners upstream of the drawbridge.

This final rule would not have a significant economic impact on a substantial number of small entities for the following reasons. The final rule will provide for the bridge to remain in the open position, allowing the free flow of vessel traffic. The bridge will close only for the passage of trains and maintenance of the bridge. This final rule will provide for the reasonable needs of navigation.

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 final rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

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 final 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 final 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 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. 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 considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. This final rule only deals with the operating schedule of an existing drawbridge and will have no impact 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.

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; 49 CFR 1.46; 33 CFR 1.05-1(g); Section 117.255 also issued under authority of Pub. L. 102587, 106 Stat. 5039.

2. In (§ 117.733 add a new paragraph (k) to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(k) The draw of Cape May Canal Railroad Bridge across Cape May Canal, mile 115.1, at Cape May shall operate as follows:

(1) The draw shall be maintained in the open position; the draw may close only for the crossing of trains and maintenance of the bridge. When the draw is closed for a train crossing a bridge tender shall be present to reopen

the draw after the train has cleared the bridge. When the draw is closed for maintenance a bridge tender shall be present to open the draw upon signal.

(2) Train service generally operates as follows (please contact Cape May Seashore Lines for current train schedules):

(i) Winter (generally December through March): In general, there is no train service, therefore the bridge is unmanned and placed in the full open position.

(ii) Spring (generally April through May and Fall (generally September through November): Generally weekend service only: Friday through Sunday train service starts at 10 a.m. and ends at 7:30 p.m. Monday through Thursday the bridge generally unmanned and in the open position.

(iii) Summer Service (generally June through August): Daily train service starting at 10 a.m. and ending 7:30 p.m.

(3) When a vessel approaches the drawbridge with the draw in the open position, the vessel shall give the opening signal. If no acknowledgement is received within 30 seconds, the vessel may proceed, with caution, through the open draw. When the draw is open and will be closing promptly, the drawbridge will generally signal using sound signals or radio telephone.

(4) Opening of the draw span may be delayed for ten minutes after a signal to open except as provide in (117.31(b). However, if a train is moving toward the bridge and has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, the train may continue across the bridge and must clear the bridge interlocks as soon as possible in order to prevent unnecessary delays in the opening of the draw.

Dated: July 23, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13-01-021]

RIN 2115-AA97

Safety Zone; Fireworks Display, Columbia River, Astoria, Oregon

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the waters of Columbia River in the vicinity of Astoria, Oregon from 9 p.m. to 11 p.m. (PDT) on August 12, 2001. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with the fireworks display. Entry into the safety zone, which encompasses all waters of the Columbia River at Astoria, Oregon within a 500 yard radius of the 11th street dock, will be prohibited unless authorized by the Captain of the Port.

DATES: This regulation is effective from 9 p.m. to 11 p.m. (PDT) on August 12, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are available for inspection or copying at the U.S. Coast Guard Group/MSO Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Bob Coster, (503) 240-9324.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the fireworks launching area. Due to uncertainties related to planning, the event sponsor, the Astoria Fireworks Committee, was unable to provide the Coast Guard with notice of the final details until less than 30 days prior to the date of the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest. Although this has not been an annual event, the location of this fireworks display is a locally accepted standard and safety zones have been adopted at this site as recently as July 4, 2001 with no negative public comment.