

Background Information

The CRA, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report that includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. The effective date of the final rule on Nondiscrimination on the Basis of Disability in Air Travel published at 66 FR 22107, is corrected from June 4, 2001 to November 9, 2001 in order to comply with the CRA.

The implementation dates in the rule remain the same. While the Department acknowledges that it should have sent a copy of the final rule to Congress and the Comptroller General prior to the effective date of the final rule, the Department does not believe that it is necessary or advisable to revise the implementation dates in the rule. The public has not been unduly affected by this error, and revising the implementation dates on a rule that was published in May would cause confusion. Individuals who can demonstrate that the Department not submitting the rule to Congress and the Comptroller General unduly burdened them should provide comments to the Department.

Administrative Procedure Act

The Administrative Procedure Act provides that an agency may dispense with prior notice and opportunity for comment when the agency for good cause finds that such procedures are impracticable, unnecessary or contrary to the public interest, 5 U.S.C. 553(b)(3)(B). The Office of the Secretary (OST) has determined that prior notice and comment are unnecessary, because OST is merely correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the CRA as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The agency finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Issued this 2nd day of October, 2001, at Washington, DC.

Kirk K. Van Tine,

General Counsel, Department of Transportation.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13-01-006]

RIN 2115-AE47

Drawbridge Operations Regulations; Youngs Bay and Lewis and Clark River, OR

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operating regulations for these bridges: New Youngs Bay, mile 0.7, across Youngs Bay; Old Youngs Bay, mile 2.4, across Youngs Bay and the Lewis and Clark River Bridge, mile 1.0, across the Lewis and Clark River at Astoria, Oregon. This final rule requires that at least one half-hour notice must be provided for draw openings from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times four hours notice is required.

EFFECTIVE DATE: This rule is effective November 9, 2001.

ADDRESSES: Unless otherwise noted, documents referred to in this notice are available for inspection and copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067, room 3510 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays. The Bridge Section of the Aids to Navigation and Waterways Management Branch maintains the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Austin Pratt, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, Telephone (206) 220-7282.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 12, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Youngs Bay and Lewis and Clark River, Oregon, in the **Federal Register** (66 FR 36529). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The current operating regulations for these drawbridges at 33 CFR 117.899 requires that a half-hour notice for openings must be provided from 5 a.m. to 9 p.m. daily. This rule reduces the number of daily hours during which

half-hour notice must be given and increases the period in which four-hour notice must be given. The number of requests for openings has decreased in recent years and specifically for those hours affected by this rule. This rule enables the bridge owner to reduce staffing for the half-hour notice periods and to apply these savings to maintenance.

Discussion of Comments and Changes

The Coast Guard received no comments. No changes are made to this final rule.

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 or 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 bridges will open at all times for vessel traffic if appropriate notice is given.

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 government jurisdictions with populations of 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 bridges will open at any time if appropriate notice is given.

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 E.O. 12630, Governmental Actions and the 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 M16475.1D, 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 written "Categorical Exclusion Determination" is not required for this final rule.

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 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.

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 117.25 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.899 is revised to read as follows:

§ 117.899 Youngs Bay and Lewis and Clark River.

(a) The draw of the US101 (New Youngs Bay) highway bridge, mile 0.7, across Youngs Bay at Smith Point shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times at least a four-hour notice by telephone is required. The opening signal shall be two prolonged blasts followed by one short blast.

(b) The draw of the Oregon State (Old Youngs Bay) highway bridge, mile 2.4, across Youngs Bay foot of Fifth Street, shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. Saturday and Sunday. At all other times at least a four-hour notice is telephone is required. The opening signal is two prolonged blasts followed by one short blast.

(c) The draw of the Oregon State (Lewis and Clark River) highway bridge, mile 1.0, across the Lewis and Clark River, shall open on signal for the

passage of vessels if at least one half-hour notice is given by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times at least a four-hour notice is required. The opening signal is one prolonged blast followed by four short blasts.

Dated: October 1, 2001.

Erroll Brown,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-01-181]

RIN 2115-AE84 and 2115-AA97

Regulated Navigation Area and Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing regulated navigation areas and safety and security zones for vessels operating within the New York Marine Inspection Zone and Captain of the Port Zone. This action is necessary to ensure public safety, prevent sabotage or terrorist acts, and facilitate the efforts of emergency services and law enforcement officers responding to recent terrorist attacks on sites in Manhattan, NY. The rule will prohibit vessels from entering certain areas of the port and impose restrictions on vessel operations in other areas.

DATES: This rule is effective September 28, 2001 through April 8, 2002.

Comments and related material must reach the Coast Guard on or before December 10, 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 CGD01-01-181 and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant K. Garza, Waterways Oversight Branch, Coast Guard Activities New York (718) 556-4407.