

2. Add temporary section 165.T01-042 to read as follows:

**§165.T01-042 Safety Zone; Town of Hingham Fourth of July Fireworks Display, Hingham, Massachusetts.**

(a) *Location.* The following area is a safety zone: All waters of Hingham Harbor within a 400-yard radius of Button Island located at approximate position 42°15'5" N, 070°53'5" W.

(b) *Effective Date.* This section is effective from 9 p.m. until 10:30 p.m. on July 2, 2005, with a rain date of 9 p.m. until 10:30 p.m. on July 3, 2005.

(c) *Regulations.*

(1) In accordance with the general regulations in 33 CFR 165.23, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, State, and Federal law enforcement vessels.

Dated: May 16, 2005.

**James L. McDonald,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

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## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

#### 33 CFR Part 207

RIN 0710-AA62

#### Navigation Regulations

**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 procedure for modifying scheduled operational hours at the Lake Washington Ship Canal, Hiram M. Chittenden Locks in Seattle, Washington. This procedure would allow the district engineer to change the scheduled operational hours of the locks after issuing a public notice and providing a 30-day comment period for any proposed change. Corrections are also made to two citations.

**DATES:** Comments must be submitted on or before July 25, 2005.

**ADDRESSES:** Written comments should be sent to the U.S. Army Corps of Engineers, Attn: CENWS-OD-TS-PS (Robert M. Rawson), P.O. Box 3755, Seattle, Washington 98124-3755, or by e-mail to [robert.m.rawson@usace.army.mil](mailto:robert.m.rawson@usace.army.mil).

**FOR FURTHER INFORMATION CONTACT:** Mr. John Post, Operations Manager, Hiram M. Chittenden Locks, at (206) 789-2622, Ms. Patricia Graesser, Public Affairs Office, (206) 764-3760, or Mr. Michael Kidby, Operations and Regulatory Community of Practice, Directorate of Civil Works, at (202) 761-0250.

**SUPPLEMENTARY INFORMATION:** This regulation has not been revised in over 40 years. Corrections need to be made to reflect current situation and changes to referenced regulations. Furthermore, there is a need to have a public notice and comment process in place to allow for changes in scheduled operation. The proposed change does not change the present operation but adds a process to allow for a change in schedule similar to that on the Columbia River. Note that the addition of this proposed schedule provision does not negate or limit the Corps' existing authority to restrict or reduce lockage operations.

#### Administrative Requirements

##### Plain Language

In compliance with the principles in the President's Memorandum of June 1, 1998, (63 FR 31855) regarding plain language, this preamble is written using plain language. The use of "we" in this notice refers the Corps. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

##### Paperwork Reduction Act

This proposed action will not impose any new information collection burden under the provisions of the Paperwork Production Act (44 U.S.C. 3501 *et seq.*). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to, or for, a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

Since the proposed rule does not involve any collection of information from the public, this action is not subject to the Paperwork Reduction Act.

##### Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), an agency must determine whether the regulatory action is "significant" and therefore subject to review by OMB and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that the proposed rule is not a "significant regulatory action" because it does not meet any of these four criteria.

##### Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires an agency to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." The phrase "policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The proposed rule does not have Federalism implications. We do not believe that amending this regulation will have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed rule

does not impose new substantive requirements. In addition, the proposed changes will not impose any additional substantive obligations on State or local governments. Therefore, Executive Order 13132 does not apply to this proposed rule.

*Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 et seq.*

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, a small entity is defined as: (1) A small business based on Small Business Administration size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of the proposed rule on small entities, we believe that this action will not have a significant economic impact on a substantial number of small entities. The proposed rule is consistent with current agency practice, does not impose new substantive requirements, and therefore would not have a significant economic impact on a substantial number of small entities.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, the agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating a rule for which a written statement is needed, Section 205 of the UMRA generally requires the

agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows an agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Before an agency establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed, under Section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. The proposed rule is consistent with current agency practice, does not impose new substantive requirements and therefore does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Therefore, the proposed rule is not subject to the requirements of Sections 202 and 205 of the UMRA. For the same reasons, we have determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, the proposed rule is not subject to the requirements of Section 203 of UMRA.

*Executive Order 13045*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria,

we must evaluate the environmental health or safety effects of the proposed rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives.

The proposed rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, it does not concern an environmental or safety risk that we have reason to believe may have a disproportionate effect on children.

*Executive Order 13175*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires agencies to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The phrase "policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. It is generally consistent with current agency practice and does not impose new substantive requirements. Therefore, Executive Order 13175 does not apply to this proposed rule.

*Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The proposed rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*Executive Order 12898*

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

The proposed rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities.

*Executive Order 13211*

The proposed rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The proposed rule is consistent with current agency practice, does not impose new substantive requirements and therefore will not have a significant adverse effect on the supply, distribution, or use of energy.

**List of Subjects in 33 CFR Part 207**

Navigation (water), Vessels, Water transportation.

Dated: May 19, 2005.

**Michael B. White,**

*Chief, Operations, Directorate of Civil Works.*

For the reasons stated above, the Corps proposes to amend 33 CFR part 207 as follows:

**PART 207—NAVIGATION REGULATIONS**

1. The authority citation for part 207 continues to read as follows:

**Authority:** 33 U.S.C. 1.

2. Amend § 207.750 by revising paragraph (b)(4) and the note to (b)(5)(i), and adding (b)(7) to read as follows:

**§ 207.750 Lake Washington Ship Canal; use, administration and navigation.**

\* \* \* \* \*

(b) \* \* \*

(4) *Traffic signal lights.* In addition to the lock signal lights described in paragraph (b)(5)(ii) of this section, a red light, and a green light are installed on the west side of the Ballard Bridge, on the east side of the Fremont Bridge, 1,000 feet west of the Montlake Bridge, and 1,000 feet east of the Montlake Bridge, for the guidance of vessels approaching the sections of the canal between Salmon Bay and Lake Union and between Lake Union and Lake Washington, respectively.

(5) \* \* \*

(i) \* \* \*

**Note:** The term "long blasts" means blasts of four seconds duration, and the term "short blasts" means blasts of one second duration. Signals for the opening of drawbridges are prescribed in 46 CFR Part 117. \* \* \*

(6) \* \* \*

(7) *Schedule.* The district engineer may, after issuing a public notice and providing a 30-day opportunity for public comment, set (issue) a schedule for the daily lockage of recreational and commercial vessels. Recreational vessels are pleasure boats such as a row, sail, or motorboats used for recreational purposes. Commercial vessels include cargo ships; fishing vessels; and licensed commercial passenger vessels operating on a published schedule or regularly operating in the "for hire" trade. Each schedule and any changes to the schedule will be issued at least 30 days prior to implementation. Prior to issuing any schedule, or any change to the schedule, the district engineer will consider all public comments and will evaluate operational efficiencies, commercial needs, the water situation, recreational use of the locks, and other public interests to determine the need for a change in schedule. The district engineer's representative at the locks shall be the Operations Manager, who shall issue orders and instructions to the lockmaster in charge of the locks. Hereinafter, the term "lockmaster" shall be used to designate the person in immediate charge of the locks at any given time. In case of emergency, and on all routine work in connection with the operation of the locks, the lockmaster shall have authority to take action without waiting for instructions from the Operations Manager.

\* \* \* \* \*

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 64**

[CC Docket No. 98-170 and CG Docket No. 04-208; FCC 05-55]

**Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on where to draw the line between the Commission's jurisdiction and states' jurisdiction over the billing practices of Commercial Mobile Radio Service (CMRS) and other interstate carriers. In addition, the proposed rules seek comment on how the Commission should define the distinction between mandated and non-mandated charges for truth-in-billing purposes, and how states can be involved in enforcing point of sale disclosure rules the Commission has proposed.

**DATES:** Comments are due on or before June 24, 2005, and reply comments are due July 25, 2005. Written comments on the proposed information collection(s) must be submitted by the public, Office of Management and Budget (OMB) and other interested parties on or before July 25, 2005.

**ADDRESSES:** You may submit comments, identified by [docket number and/or rulemaking number], by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Federal Communications Commission's Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Michael Jacobs, Consumer & Governmental Affairs Bureau at (202) 418-2512 (voice), or e-mail [Michael.Jacobs@fcc.gov](mailto:Michael.Jacobs@fcc.gov). For additional