

engaging in the exploration, development, or production of oil, natural gas or mineral resources, that are regulated by 33 CFR Subchapter N, and that meet certain operating conditions of crewing or production. These regulations were developed under the authority the Maritime Transportation Security Act, which among other things, requires the development of security plans designed to deter, to the maximum extent practicable, transportation security incidents (TSIs). TSIs are security incidents resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

The Coast Guard recognized that fixed and floating facilities come in a wide array of designs, and support a variety of activities, functions and processes that are intrinsic to the exploration, development or production of oil, natural gas, or mineral resources. Without the benefit of security measures, these facilities may be susceptible to a TSI. To ensure we included all relevant OCS facilities, we made our maritime security regulations applicable to those OCS facilities regulated under 33 CFR subchapter N (see 33 CFR 106.105. Applicability). Subchapter N applies to a wide variety of OCS facilities, including facilities used to support drilling, extraction, and transmission. The security requirements of Title 33 CFR Part 106 apply to those OCS facilities now regulated under subchapter N, as may be further limited by the "consequence thresholds" discussed below.

The Coast Guard used the National Risk Assessment Tool (N-RAT) to determine "consequence thresholds" for various vessel and facility types to determine which vessels and facilities could be involved in a TSI. However, with regard to the facilities regulated by Title 33 part 106, and as indicated in the Preamble to the temporary interim rules published on July 1, 2003 (68 FR 39250), we worked with the Minerals Management Service (MMS) to compare OCS facility production rates and operations to develop appropriate "consequence thresholds." This is because the N-RAT was not able to provide sensitivity to the OCS facility size or production level that was sufficient for assessing the "significant loss of life", "economic disruption in a particular area", "transportation system disruption", or "environmental damage", that is necessary for us to make a TSI determination.

In Title 33 CFR 106.105, the Coast Guard identified three operating conditions to determine if the

"consequence threshold" for a TSI is present on a particular OCS facility: the facility hosts more than 150 persons for 12 hours or more in any 24 hour period continuously for 30 days or more; the facility produces greater than 100,000 barrels of oil per day; or the facility produces greater than 200 million cubic feet of natural gas per day.

These criteria have been developed solely to establish the "consequence thresholds" for a TSI. Because a "consequence threshold" is applied as a metric, the particular activity, function or process that causes the threshold to be reached is irrelevant. Therefore, the Coast Guard uses the term "production" to include the handling, transfer or transmission of oil or natural gas by an OCS facility. In that regard, reference is made to the definition of "production" used in 33 CFR subchapter N (140.10). Simply put, the Coast Guard finds that an OCS facility that supports a pipeline transmission junction transporting 100,000 barrels of oil per day presents the same TSI risks as an OCS facility that supports wells extracting 100,000 barrels of oil day from a down hole formation. Similarly, the Coast Guard finds that an OCS facility that supports both extraction and transportation activity, where neither the extraction nor the transportation components individually exceed the "consequence threshold", but the aggregate of both activities exceeds the "consequence threshold", presents the same TSI risk.

Policy: Title 33 CFR part 106 applies to those OCS facilities already regulated by 33 CFR subchapter N that meet the operating conditions of section 106.105 (a), (b) or (c). The Coast Guard uses the definition of the term "production" given in 33 CFR subchapter N (140.10) to include those activities, functions and processes that could render the OCS facility susceptible to a TSI. These activities, functions and processes may include, but are not necessarily limited to, the handling, transfer or transportation of oil or natural gas by an OCS facility supporting pipeline transmission junctions. The Coast Guard will continue to work with the Minerals Management Service (MMS) as necessary to refine and update the "threshold characteristics" upon which the applicability of 33 CFR part 106 is based.

To this end, the MMS has provided the Coast Guard with a list of OCS facilities that, according to MMS data, meet or exceed the "threshold characteristics" in 33 CFR part 106. The Coast Guard has sent letters to owners or operators of these facilities informing them that they must comply with the requirements of 33 CFR part 106. The

Coast Guard intends to work closely with the MMS to identify all OCS facilities to which 33 CFR part 106 applies, and to inform the owners and operators of these facilities that they have been so identified. Owners and operators who believe their OCS facilities have been misidentified, or otherwise do not meet the "threshold characteristics" may appeal as prescribed in 33 CFR 101.420. While the Coast Guard will make a good faith effort to identify and notify the owners and operators of those OCS facilities subject to the requirements of 33 CFR part 106, ultimate responsibility for complying with 33 CFR part 106 rests with the cognizant OCS facility owner or operator.

Dated: February 12, 2004.

T.H. Gilmour,

Assistant Commandant for Marine Safety, Security and Environmental Protection.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD13-03-027]

RIN 1625-AA09

Drawbridge Operation Regulations; Columbia River, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the operating regulations of the dual vertical lift bridges on Interstate Highway 5 across the Columbia River, mile 106.5, between Portland, OR, and Vancouver, WA. Between July 15 and October 15, 2004, the lift spans will open for the passage of vessels only at scheduled times to accommodate a major rehabilitation of the mechanical and electrical systems of the bridges.

DATES: This rule is effective from 6:30 a.m. on July 15 to 9 p.m. on October 15, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD13-03-027], will become part of this docket and will be available for inspection or copying at the Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174 between 7:30 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Austin Pratt, Chief Bridge Section, (206) 220-7282.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 5, 2003, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Columbia River, Oregon in the **Federal Register** (68 FR 52722). We received no comments on this NPRM. No public hearing was requested and none was held.

Background and Purpose

This temporary rule will enable the bridge owners to conduct a major rehabilitation project during the part of the year when water levels are typically low enough that most vessels do not need the drawspans to open for their passage. The seven million dollar project will completely replace the existing 1959 electrical system in both bridges and the 1916 gears in the northbound drawbridge. In addition, the operating control center will be rebuilt with improved visibility and new television cameras. During the first three weeks of the period, the dual lifts will remain in the down position to facilitate gear replacement. Thereafter, openings will be provided once every two weeks, if needed, until the end of the temporary period. Historically, water levels on the Columbia River fluctuate significantly over the course of an annual cycle. Essentially, water levels are dependent on the accumulation of snow in the winter and its melting in the spring and early summer. The annual dry season in the Pacific Northwest is typically from approximately July 15 to October 15. Usually rainfall begins to raise water levels again after October 15.

A river elevation of 6.0 feet Columbia River Datum (CRD) is the critical point for towboats on the Columbia River at and upstream of the bridges. Cargo towing is the main commercial use of the Columbia above the bridges. Large oceangoing vessels do not generally pass above these bridges. The towboats that ply that portion of the Columbia require 52 feet of vertical clearance. Most towing vessels and passenger tour vessels are able to pass through the highest fixed spans near midstream without requiring the vertical lift spans near the north shore to open when the river level is six feet or less.

The exceptions are the tallest sailboats, some construction derricks, and large structures that have been built upstream of the bridges at shore

facilities. With the exception of the first three weeks of the affected period when the draws need not open, an opening will be provided every two weeks. During summer months the openings average less than one per day, mostly for sailboats, some of which could pass the higher fixed spans if antennas were lowered.

Discussion of Rule

We received no comments on the notice of proposed rulemaking.

The temporary rule authorizes a continuous closure of the draws from 6:30 a.m. July 15 to 9 p.m. August 6, 2004. On August 6 and 20, September 3 and 17 and October 1, 2004, openings will be provided on signal at 9 p.m. Openings need not be provided at times other than these from 9 p.m. on August 6 until 9 p.m. October 15.

Regulatory Evaluation

This 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 Homeland Security.

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

We do expect recreational sailboats to be affected by this temporary rule. This class of vessel most commonly requires openings of the subject drawbridges during the summer months. Some of these vessels will either have to find alternate moorage or otherwise be limited in their operating areas during the project. Others will be able to modify their top hamper by lowering antennas, instruments, masts, etc., in order to pass the bridge if the biweekly scheduled openings do not serve their needs. These vessel operators will receive notice of several months duration to plan their activities for summer 2004.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 rule would not have a significant economic impact on a substantial number of small entities. We expect that some recreational sailboat owners will be affected by this proposal. Most other vessels will either not require openings of the draws during low water season or will be accommodated by the biweekly scheduled openings. Some sail boaters will have to change their moorage and itineraries or modify their vessels to avoid delays.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Austin Pratt, Chief, Bridge Section at (206) 220-7282.

Collection of Information

This 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 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 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 would 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 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 might 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 have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation. There are no expected environmental consequences of the

action that would require further analysis and documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. From 6:30 a.m. on July 15, 2004, until 9 p.m. on October 15, 2004, in § 117.869, suspend paragraph (a) and add a new paragraph (d) to read as follows:

§ 117.869 Columbia River.

* * * * *

(d) The draws of the Interstate 5 Bridges, mile 106.5, between Portland, OR, and Vancouver, WA, need not open for the passage of vessels from 6:30 a.m. on July 15, 2004, to 9 p.m. on August 6, 2004, and at no other time until 9 p.m. on October 15 except for scheduled openings on signal at 9 p.m. on August 6 and 20, September 3 and 17, and October 1, 2004.

Dated: February 6, 2004.

Jeffrey M. Garrett,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD13-04-003]

RIN 1625-AA09

Drawbridge Operation Regulations; Willamette River, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Commander, Thirteenth Coast Guard District, is temporarily changing the regulation governing the Broadway Bridge, mile 11.7, Willamette River at Portland, Oregon, so that the bridge need not open for vessel traffic unless 24 hours notice is provided from

February 27 through November 15, 2004. Additionally, the change sets forth periods within this time frame, during which the bridge may remain closed to vessel traffic. This temporary rule will accommodate painting and repair of the bascule span.

DATES: This rule is effective from 7 a.m. on February 27 through 11 p.m. on November 15, 2004.

ADDRESSES: Documents referred to in this rule are available for inspection or copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Austin Pratt, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, telephone (206) 220-7282.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule is being promulgated without an NPRM due to the short time between the date the request for this change was submitted to the Coast Guard and the start date of the scheduled maintenance and repairs. In addition, this temporary schedule has been coordinated with the waterway users, and should not cause a great disruption in the bridge's current usage. Currently, The drawspan averages only 2 to 3 openings a week, usually for grain ships. The Columbia River Pilots are able to give 24 hours notice of arrivals and departures, and most other vessels plying this reach of the Willamette River are able to pass the Broadway Bridge with its drawspan closed.

Good Cause for Making Rule Effective in Less Than 30 days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the request less than 30 days prior to the scheduled painting and repair project. Delaying the effective date of this rule would be contrary to the public interest because the repair and maintenance require the bridge to be closed. This event has been coordinated with the waterway users. It is similar to other temporary operations authorized for this