

services and/or physically construct any project involving Federal funds.

(1) The price reasonableness determination shall be made pursuant to a process provided for in the public-private agreement that includes a comparison of the developer's estimate to an estimate prepared by the contracting agency. Both parties may meet to discuss the differences in the estimates and make appropriate revisions. The estimates prepared under this paragraph shall be prepared on an open-book basis with respect to both the contracting agency and the developer.

(2) The contracting agency's determination of price reasonableness shall be submitted to the FHWA for concurrence.

(3) If the contracting agency cannot reach an agreement on price reasonableness with the developer, or if the FHWA does not concur, then the contracting agency shall proceed to procure the work with another firm pursuant to parts 172, 635, and 636 of this title, as appropriate.

(c) The contracting agency must ensure Federal-aid projects developed under a public-private partnership comply with all non-procurement requirements of 23 U.S. Code, regardless of the form of the FHWA funding (traditional Federal-aid funding or credit assistance). This includes compliance with all FHWA policies and requirements, such as environmental and right-of-way requirements and compliance with all applicable construction contracting requirements such as Buy America, Davis-Bacon prevailing wage rate requirements, etc.

12. Revise § 636.302(a)(1) to read as follows:

**§ 636.302 Are there any limitations on the selection and use of proposal evaluation factors?**

(a) \* \* \*

(1) You must evaluate price in every source selection where construction is a significant component of the scope of work. However, where the contracting agency elects to release the final RFP and award the design-build contract before the conclusion of the NEPA process (see § 636.109), then the following requirements apply:

(i) It is not necessary to evaluate total contract price;

(ii) The evaluation of proposals and award of the contract may be based on qualitative considerations;

(iii) The subsequent approval of final design and construction activities will be contingent upon a finding of price reasonableness by the contracting agency;

(iv) In determining price reasonableness, the contracting agency

and design-builder may negotiate the price, which shall be done on an open-book basis by both the design-builder and contracting agency; and

(v) The contracting agency's finding of price reasonableness is subject to FHWA concurrence.

\* \* \* \* \*

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BILLING CODE 4910-22-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD08-06-002]

RIN 1625-AA09

**Drawbridge Operation Regulations; Missouri River, Iowa, Kansas, Missouri**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to make revisions in Missouri River drawbridge regulations covering Iowa, Kansas, and Missouri. Under the proposed revisions, the bridges will open on signal, except during the winter season when 24 hours advance notice will be required. These proposed revisions to the regulations will reduce delays to the vessels transiting through these States on the Missouri River.

**DATES:** Comments and related material must reach the Coast Guard on or before July 24, 2006.

**ADDRESSES:** You may mail comments and related material to Commander, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832. Commander (dwb), Eighth Coast Guard District, 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 room 2.107f in the Robert A. Young Federal Building, Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 539-3900, extension 2378.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08-06-002], 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 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 Eighth Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The Coast Guard reviewed the history of civil penalty actions for failure of the Missouri River drawbridges to open for navigation. Meetings were held with the bridge owner and vessel operators to determine the cause for not opening the bridge draw on signal. A procedure was incorporated in the regulations to help reduce the number of vessel delays caused by failure to open the bridge on signal. Experience has shown the procedure was never implemented and vessel delays were not reduced. Thus, the Coast Guard is proposing these revisions to these regulations so vessels may pass the bridge without delay.

**Discussion of Proposed Rule**

The Coast Guard determined that changes were needed to correct inaccuracies in State-related drawbridge operation regulations for § 117.407 (Iowa), § 117.411 (Kansas), and § 117.687 (Missouri). In addition, § 117.411(b) and § 117.687(b), which describe the procedure for the operation of A-S-B Highway and Railroad Bridge at Mile 365.6, are to be eliminated. This drawbridge was never operated in the manner described. It will open on signal as described in § 117.411 and § 117.687.

**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.

The Coast Guard expects that these changes will have a minimal economic impact on commercial traffic operating on the Missouri River. The procedure is already in practice at the bridges, and the change to the CFR documents the procedure.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This proposed rule is neutral to all business entities since it affects only how the vessel operators request bridge openings.

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.

#### 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 proposed rule so that they could 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 Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 2378. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 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 will 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 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 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 proposed 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 proposed 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, 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. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this proposed regulation would alter the normal operating conditions of the drawbridge, it falls

within this exclusion. 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.

#### Regulations

For the reasons discussed 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. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.407 to read as follows:

#### § 117.407 Missouri River.

See § 117.691, Missouri River listed under Nebraska.

3. Revise § 117.411 to read as follows:

#### § 117.411 Missouri River.

The draws of the bridges across the Missouri River shall open on signal; except during the winter season between the date of closure and the date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24 hours advance notice is given.

4. Revise § 117.687 to read as follows:

#### § 117.687 Missouri River.

The draws of the bridges across the Missouri River shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24 hours advance notice is given.

Dated: April 25, 2006.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 06–4877 Filed 5–24–06; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01–06–052]

RIN 1625–AA11

#### Regulated Navigation Area: Narragansett Bay, RI and Mount Hope Bay, MA, Including the Providence River and Taunton River

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise some provisions of the existing Regulated Navigation Area (RNA) in the Providence River, Narragansett Bay, RI and Mount Hope Bay, MA. Specifically, the purposes of this proposed rulemaking are to: First, modify provisions in the current RNA that were originally implemented to address severe shoaling in the Providence River; second, address navigational challenges associated with the two Brightman Street bridges; and third, introduce new measures to improve navigation safety in all of Narragansett Bay and Mount Hope Bay, including the Providence and Taunton Rivers, respectively.

**DATES:** Comments and related material must reach the Coast Guard on or before August 23, 2006.

**ADDRESSES:** You may mail comments and related material to U.S. Coast Guard Sector Southeastern New England, Prevention Department, 20 Risho Avenue, East Providence, RI, 02914–1208. U.S. Coast Guard Sector Southeastern New England maintains the public docket for this rulemaking. Comments and documents will become part of this docket and will be available for inspection and copying at the same address between 8 a.m. and 3 p.m. Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward G. LeBlanc at U.S. Coast Guard Sector Southeastern New England, 401–435–2351.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–06–052), 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 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 plan to hold a public meeting but you may submit a request for a meeting by writing to U.S. Coast Guard Sector Southeastern New England at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid the Coast Guard in determining what type of rulemaking (if any) is appropriate, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

On May 1, 1994, the Coast Guard established a Regulated Navigation Area (RNA) in the Providence River, Providence, Rhode Island, described at 33 CFR 165.122 (59 FR 18487, April 19, 1994). It was designed to protect the maritime community from hazards to navigation resulting from the extreme shoaling that occurred in the northern section of the Providence River Channel.

Generally, the current RNA imposes certain navigation restrictions in various segments of the Providence River including, among other requirements, a maximum draft of 35 feet for most vessels, one-way vessel traffic, and a requirement that vessels over 65 feet in length make periodic SECURITE calls via VHF radio. In September 2005 the U.S. Army Corps of Engineers ("USACE") completed a major maintenance dredging of the Providence River to remove most shoaling and restore the channel to a depth of 40 feet at Mean Lower Low Water (MLLW), and a minimum channel width of 600 feet. (The USACE "Results of Survey" dated September 16, 2005, is available for review in the docket, CGD01–06–052.)

The restoration of the Providence River Channel to the above described dimensions should permit sufficient depth and width for most commercial and recreational vessels to navigate safely within the channel. Consequently, because the primary conditions that warranted the RNA no longer exist, the Coast Guard is considering making modifications to it.

Construction of a new Brightman Street bridge ("The New Brightman Street Bridge") approximately 1100 feet north of the existing Brightman Street