

by the private sector, of \$100 million or more in any one year.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

The Regulatory Flexibility Act (RFA) requires each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule will not significantly affect a substantial number of small entities.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

This rule will not impose any additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized.

Executive Order 13132, "Federalism"

This proposed rule has been examined for its impact under E.O. 13132. It does not contain policies that have federalism implications that would 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; therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, dental health, health care, health insurance, individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

2. Paragraph 199.2(b) is amended by adding a definition for CAHs and placing it in alphabetical order to read as follows:

§ 199.2 Definitions.

\* \* \* \* \*

(b) \* \* \*

CAHs. A small facility that provides limited inpatient and outpatient hospital services primarily in rural areas and meets the applicable requirements established by § 199.6(b)(4)(xvi).

\* \* \* \* \*

3. Section 199.6 is amended by adding new paragraph (b)(4)(xvi).

§ 199.6 TRICARE-authorized providers.

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(xvi) CAHs. CAHs must meet all conditions of participation under 42 CFR part 485.601-485.645 in relation to TRICARE beneficiaries in order to receive payment under the TRICARE program. If CAH provides inpatient psychiatric services or inpatient rehabilitation services in a distinct part unit, these distinct part units must meet the conditions of participation in 42 CFR part 485.647, with the exception of being paid under the inpatient prospective payment system for psychiatric facilities as specified in 42 CFR part 412.1(a)(2) or the inpatient prospective payment system for rehabilitation hospitals or rehabilitation units as specified in 42 CFR part section 412(a)(3).

\* \* \* \* \*

4. Section 199.14 is amended by redesignating paragraphs (a)(3) through (a)(5) as (a)(4) through (a)(6); revising newly redesignated paragraph (a)(4) introductory text, paragraphs (a)(6)(xi) and (xii), and the first sentence of paragraph (d)(1); and adding new paragraphs (a)(1)(ii)(D)(10), (a)(3), and (a)(6)(xiii) to read as follows:

§ 199.14 Provider reimbursement methods.

(a) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(D) \* \* \*

(10) CAHs. Any facility which has been designated and certified as CAH as contained in 42 CFR part 485.606.

\* \* \* \* \*

(3) Reimbursement for inpatient services provided by CAH. Inpatient services provided by CAH, other than services provided in psychiatric and rehabilitation distinct part units, shall be reimbursed at the lesser of the billed charge or 101 percent of reasonable costs. This does not include any costs of physician services or other professional services provided to CAH inpatients. Inpatient services provided in psychiatric distinct part units would be subject to the CHAMPUS mental health per diem payment system. Inpatient services provided in rehabilitation distinct part units would be subject to billed charges or set rates.

(4) Billed charges and set rates. The allowable costs for authorized care in all hospitals not subject to the CHAMPUS Diagnosis Related Group-based payment system, the CHAMPUS mental health per diem system, or the reasonable cost method for critical access hospitals,

shall be determined on the basis of billed charges or set rates. Under this procedure the allowable costs may not exceed the lower of:

\* \* \* \* \*

(6) \* \* \*

(xi) Facility charges. TRICARE payments for hospital outpatient facility charges that would include the overhead costs of providing the outpatient service, with the exception of critical access hospitals, would be paid as billed. For the definition of facility charge, see § 199.2(b).

(xii) Ambulatory surgery services. Hospital outpatient ambulatory surgery services, with the exception of CAHs, shall be paid in accordance with § 199.14(d).

(xiii) Outpatient services provided by CAH. Outpatient services provided by CAH, to include ambulatory surgery services, shall be reimbursed at the lesser of the billed charge or 101 percent of reasonable costs. This does not include any costs of physician services or other professional services provided to CAH outpatients.

\* \* \* \* \*

(d) \* \* \*

(1) In general. CHAMPUS pays institutional facility costs for ambulatory surgery on the basis of prospectively determined amounts, as provided in this paragraph, with the exception of ambulatory surgery procedures performed in CAHs, which are to be reimbursed in accordance with the provisions of paragraph (a)(6)(xiii) of this section. \* \* \*

\* \* \* \* \*

Dated: April 28, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8-9800 Filed 5-2-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2008-0100]

RIN 1625-AA09

Drawbridge Operation Regulation; Wabash River, IL; Permanent Change to Operating Schedule

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes amending the regulation for the

operation of drawbridges across the Wabash River in Illinois, in order to reflect the needs of navigation.

**DATES:** Comments and related material must reach the Coast Guard on or before June 4, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG–2008–0100 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand Delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Mr. Roger Wiebusch, Bridge Administrator, (314) 269–2378. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0100), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and

material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, 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.

#### **Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG–2008–0100) in the search box, and click "Go>>." You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays or the Robert A. Young Federal Building, Room 2.107F, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### **Privacy Act**

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

#### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one 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 Wabash River is a 475 mile long river in the eastern United States that flows generally southwest from Ohio, through Indiana, to Kentucky. The

System rises in the vicinity of St. Henry, Ohio and flows across northern Indiana to Illinois where it forms the southern Illinois-Indiana border before draining into the Ohio River. The Wabash River flows into the Ohio River near Uniontown, Kentucky. The Wabash River drawbridge operation regulation contained in 33 CFR 117.397 states that all drawbridges shall open on signal if given 72 hours advance notice. The Coast Guard has determined that this regulation is no longer necessary due to the lack of navigation on the river. We propose amending 33 CFR 117.397 so that drawbridges on the Wabash River, in Illinois, will no longer have to open for the passage of vessels. We have consulted with the local marine industry, which has raised no objections or concerns regarding this proposed action.

#### **Discussion of Proposed Rule**

The proposed changes to 33 CFR 117.397 will reflect the current needs of navigation on the Wabash River. The last request for opening of a drawspan on the Wabash River was in 1991. The U.S. Army Corps of Engineers does not maintain any project depth or navigable channel on the river. Commercial use of the waterway is only possible during periods of high water. During these periods "snag and debris removal" operations are carried out by small commercial vessels that can safely pass beneath all closed drawspans on the waterway.

#### **Regulatory Evaluation**

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The drawbridges of the Wabash River do not presently open for the passage of vessels due to the lack of navigation on the river. The last recorded opening of a Wabash River drawspan was in 1991. Consultation with bridge owners indicated that currently no bridge on the Wabash River has a bridge tender position assigned to it. Therefore, no jobs will be lost, nor will any forms of commerce be disrupted by the proposed rule.

### 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 proposed 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 only clarifies how the bridges are operated.

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 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 Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 269–2378. 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 might 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 proposed 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 made a preliminary determination that this action is not likely to have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 117

Bridges.

### Words of Issuance and Proposed Regulatory Text

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; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.397 to read as follows:

**§ 117.397 Wabash River.**

The draws of the bridges across the Wabash River need not be opened for the passage of vessels.

Dated: April 17, 2008.

**J.H. Korn,**

*Captain U.S. Coast Guard, Acting  
Commander, 8th Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0327]

RIN 1625-AA00

#### Safety Zone; Swim the Bay Event, Presque Isle Bay, Erie, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard proposes establishment of a safety zone for a Swimming Race in the Captain of the Port Buffalo zone. This proposed rule is intended to restrict vessels from portions of water during events that pose a hazard to public safety. The safety zone established by this proposed rule is necessary to protect spectators, participants, and vessels from the hazards associated with a Swimming Race.

**DATES:** Comments and related materials must reach the Coast Guard on or before June 4, 2008.

**ADDRESSES:** You may mail comments and related material to Commander, Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203. Sector Buffalo Prevention Department 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 Coast Guard Sector Buffalo between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have further questions on this rule, contact Lieutenant Tracy Wirth, U.S. Coast Guard Sector Buffalo, at (716) 843-9573.

#### 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 [USCG-2008-0327], 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 Commander, Coast Guard Sector Buffalo at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one 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

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with Swimming Races. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo, has determined Swimming races pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use, could easily result in serious injuries or fatalities.

#### Discussion of Proposed Rule

The proposed rule and associated safety zones are necessary to ensure the safety of vessels and people during events in the Captain of the Port Buffalo area of responsibility that may pose a hazard to the public. The proposed safety zone is described in subparagraphs (a) of this regulation. The proposed safety zone will be enforced only immediately before and during the event which poses hazard to the public and only upon notice by the Captain of the Port. The Captain of the Port Buffalo will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local

Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended.

#### Regulatory Evaluation

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The Coast Guard’s use of this safety zone will be periodic in nature, of short duration, and designed to minimize the impact on navigable waters. This safety zone will only be enforced immediately before and during the time the event occurs. Furthermore, this safety zone has been designed to allow vessels to transit unrestricted to portions of the waterway not affected by the safety zone. The Coast Guard expects insignificant adverse impact to mariners from the activation of this safety zone.

#### 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the area designated as the safety zone in subparagraph (a) during the date and time the safety zone is being enforced. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone in this proposed rule would be in effect for short periods of time and only once per year. The safety zone has been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through