

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.ID and Department of Homeland Security Management Directive 5100.1, which guide 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 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, we believe that this proposed rule should be categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

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. Section 117.720 is amended by adding a new paragraph (c) to read as follows:

§ 117.720 Great Channel.

* * * * *

(c) From 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year.

3. Section 117.721 is revised to read as follows:

§ 117.721 Grassy Sound Channel.

The draw of the Grassy Sound Channel Bridge, mile 1.0 in Middle Township, shall open on signal from 6 a.m. to 8 p.m. from May 15 through September 30. From 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for

vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year. Two hours advance notice is required for all other openings by calling (609) 368–4591.

4. Section 117.733 is amended by redesignating paragraph (k) as paragraph (m) and adding a new paragraph (k) to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(k) The draw of Two-Mile Bridge, mile 112.2, across Middle Thorofare in Wildwood Crest, shall open on signal; except from 9:15 a.m. to 10:30 a.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open for vessels from 9:15 a.m. to 10:30 a.m. on the third Sunday of March of every year.

* * * * *

§ 117.757 [Redesignated]

5. Redesignate § 117.757 as § 117.758.
6. Add new § 117.757 to read as follows:

§ 117.757 Townsend Inlet.

The draw of Townsend Inlet Bridge, mile 0.3 in Avalon, shall open on signal; except from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year.

Dated: June 16, 2006.

Larry L. Hereth,
*Rear Admiral, U.S. Coast Guard, Commander,
Fifth Coast Guard District.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–06–044]

RIN 1625–AA09

Drawbridge Operation Regulations; Broad Creek, Cedar Creek, and Nanticoke River, DE

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operation

regulations of four Delaware Department of Transportation (DelDOT) bridges: The Poplar Street Bridge, at mile 8.2, and the US 13A Bridge, at mile 8.2, both across Broad Creek in Laurel, DE; the SR 36 Bridge, at mile 0.5, over Cedar Creek in Cedar Beach; and SR 13 Bridge, at mile 39.6, across Nanticoke River in Seaford, DE. This proposal would allow the bridges to open on signal if advance notice is given at different times from 4 to 48 hours. This proposal will eliminate the continual attendance of draw tender services during the non-peak boating periods while still providing the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before August 14, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004. The Fifth 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 Commander (dpb), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

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 CGD05-06-044, 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 a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals 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

(dpb), Fifth Coast Guard District 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

DelDOT, who owns and operates the Poplar Street Bridge and the US 13A Bridge, at mile 8.2, both across Broad Creek in Laurel; the SR 36 Bridge, at mile 0.5, over Cedar Creek in Cedar Beach; and the SR 13 Bridge, at mile 39.6, across Nanticoke River in Seaford, requested advance notification for vessel openings and a reduction in draw tender services for the following explanations:

Broad Creek

In the closed-to-navigation position, the Poplar Street Bridge, mile 8.2, and the US 13A Bridge, mile 8.2, both in Laurel, have vertical clearances of five feet and two feet, above mean high water, and eight feet and five feet, above mean low water, respectively. The existing operating regulations for these drawbridges are set out in 33 CFR 117.233, which requires the bridges, along with the Conrail Bridge (at mile 8.0) in Laurel, to open on signal if at least four hours notice is given.

DelDOT provided information to the Coast Guard about the conditions and reduced operational capabilities of the draw spans. Due to the infrequency of requests for vessel openings of the drawbridge for the past 10 years, DelDOT requested to change the current operating regulations by requiring the draw spans to open on signal if at least 48 hours notice is given year-round.

Cedar Creek

The SR 36 Bridge, at mile 0.5 in Cedar Beach, has a vertical clearance of two feet, above mean high water, and six feet, above mean low water, in the closed-to-navigation position. The existing regulation is listed at 33 CFR 117.5, which requires the bridge to open on signal.

Bridge opening data submitted by DelDOT revealed significantly fewer openings at certain hours of the night in the spring and summer months; and during the fall and winter months. The bridge logs also show the majority of drawbridge openings were performed year-round between the hours of 6 a.m. and 6:30 p.m. The proposed change will require the draw to open on signal from April 1 through November 30, except from 2 a.m. to 4 a.m., when at least four hours notice must be given. From 6 a.m. to 6:30 p.m., from December 1 through

March 31, the draw would open on signal. At all other times, the draw would open on signal if at least four hours notice is given.

These changes are being requested to reduce bridge tender services required at the SR 36 Bridge due to the decrease in vessel opening requests.

Nanticoke River

The SR 13 Bridge, at mile 39.6, in Seaford has a vertical clearance of three feet, above mean high water and seven feet, above mean low water in the closed-to-navigation position. The existing regulation is listed at 33 CFR 117.5, which requires the bridge to open on signal.

Bridge opening data submitted by DelDOT revealed significantly fewer openings between the hours of 8 a.m. and 6 p.m. in the spring and summer months; and on weekdays in the fall and winter months.

The proposed change would require the draw to open on signal from 8 a.m. to 6 p.m. from April 1 through October 31; and at all other times, if at least four hours notice is given. From 7:30 a.m. to 3 p.m., from November 1 through March 31, on weekends (Saturdays and Sundays), the draw would open on signal; and at all other times, if at least four hours notice is given.

These changes are being requested to reduce bridge tender services required at the SR 13 Bridge due to the decrease in vessel opening requests.

Discussion of Proposed Rule

Broad Creek

The Coast Guard proposes to revise 33 CFR 117.233, which governs the Conrail Bridge, mile 8.0, the Poplar Street bridge, mile 8.2 and the US 13A bridge, mile 8.2, all in Laurel.

The current paragraph would be divided into paragraphs (a) and (b). Paragraph (a) would contain the existing rule for the Conrail Bridge, mile 8.0, in Laurel and would state that the draw shall open on signal if at least four hours notice is given.

Paragraph (b) would contain the proposed rules for the Poplar Street Bridge, mile 8.2 and the US 13A Bridge, mile 8.2, both in Laurel. The proposals would require the drawbridges to open on signal if at least 48 hours notice is given.

Cedar Creek

A new section, 117.234, would be inserted to allow SR 36 Bridge, mile 0.5 in Cedar Beach, to open on signal from April 1 through November 30, except from 2 a.m. to 4 a.m., if at least four hours notice is given.

From December 1 through March 31, from 6 a.m. to 6:30 p.m., the draw would open on signal; and at all other times, if at least four hours notice is given.

Nanticoke River

In 33 CFR 117.243, this proposed rule redesignate paragraphs (a) through (c) as paragraph (a)(1) through (a)(3). The redesignated paragraph (a) would contain the existing rules for the Norfolk Southern Railway Bridge, mile 39.4, at Seaford. The contact information for advance notice at the Norfolk Southern Railway Bridge would be changed to the "train dispatcher" vice "bridge tender" and the new telephone numbers at (717) 215-0379 or (609) 412-4338.

The redesignated paragraph (b) would contain the proposed rules for the SR 13 Bridge, mile 39.6, in Seaford. The proposed rule would require the draw to open on signal from 8 a.m. to 6 p.m. from April 1 through October 31; and at all other times, if at least four hours notice is given. From 7:30 a.m. to 3 p.m., from November 1 through March 31, on weekends (Saturdays and Sundays), the draw would open on signal; and at all other times, if at least four hours notice is given.

Text modifications to be consistent with other proposed changes would be made in these paragraphs, as appropriate.

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the proposed scheduled bridge openings, to minimize delays.

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 not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the proposed scheduled bridge openings can minimize delay.

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 (Public Law 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 Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, and (757) 398-6222. 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 effect 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.ID and Department of Homeland Security Management Directive 5100.1, which guide 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 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

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 § 117.233 to read as follows:

§ 117.233 Broad Creek.

(a) The draw of the Conrail Bridge, mile 8.0 at Laurel, shall open on signal if at least four hours notice is given.

(b) The draws of the Poplar Street Bridge, mile 8.2, and the US 13A Bridge, mile 8.2, all at Laurel, shall open on signal if at least 48 hours notice is given.

3. Add new § 117.234 to read as follows:

§ 117.234 Cedar Creek.

The SR 36 Bridge, mile 0.5 in Cedar Beach, shall open on signal; except that from April 1 through November 30 from 2 a.m. to 4 a.m.; and from December 1 through March 31 from 6:30 p.m. to 6 a.m., the draw shall open on signal if at least four hours notice is given.

4. Revise § 117.243 to read as follows:

§ 117.243 Nanticoke River.

(a) The draw of the Norfolk Southern Railway Bridge, mile 39.4 in Seaford, will operate as follows:

(1) From March 15 through November 15, the draw will open on signal for all vessels except that from 11 p.m. to 5 a.m. at least 2½ hours notice will be required.

(2) At all times, from November 16 through March 14, the draw will open on signal if at least 2½ hours notice is given.

(3) When notice is required, the owner operator of the vessel must provide the train dispatcher with an estimated time of passage by calling (717) 215–0379 or (609) 412–4338.

(b) The draw of the SR 13 Bridge, mile 39.6 in Seaford, shall open on signal, except that from April 1 through October 31, from 6 p.m. to 8 a.m.; and from November 1 through March 31, Monday to Friday; and from November 1 through March 31, on Saturday and Sunday, from 3:30 p.m. to 7:30 a.m., the draw shall open on signal if at least four hours notice is given.

Dated: June 16, 2006.

Larry L. Hereth,

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

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AM28

Accrued Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulation regarding accrued benefits. The amendments are the result of changes in statute and to clarify existing regulatory provisions.

DATES: Comments must be received by VA on or before August 28, 2006.

ADDRESSES: Written comments may be submitted by: mail or hand-delivery to the Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or e-mail through www.Regulations.gov. Comments should indicate that they are submitted in response to “RIN 2900–AM28.” All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Consultant, Policy and Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7211.

SUPPLEMENTARY INFORMATION: Section 104 of the Veterans Benefits Act of 2003 (the “Act”), Public Law 108–183, amended 38 U.S.C. 5121, which addresses payment of certain accrued benefits upon the death of a beneficiary. To ensure consistency with statutory changes and for clarification purposes, VA proposes to amend its regulations regarding accrued benefits.

Prior to its amendment by section 104 of the Act, the introductory portion of 38 U.S.C. 5121(a) read as follows:

Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen’s indemnity) under laws administered by the Secretary to which an individual was entitled at death under existing ratings or decisions, or those based on evidence in the file at date of death (hereinafter in this section and section 5122 of this title referred to as “accrued benefits”) and due and unpaid for a period not to exceed two years, shall, upon the death of such individual be paid as follows * * *.