

(8) Proceed south-southeasterly in a straight line, returning to the beginning point.

Signed: May 24, 2010.

John J. Manfreda,
Administrator.

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BILLING CODE 4810-31-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2009-0803]

RIN 1625-AA09

Drawbridge Operation Regulation; Oakland Inner Harbor Tidal Canal, Oakland/Alameda, CA, Schedule Change

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the drawbridge operation regulation for the Alameda County and the Army Corps of Engineers owned drawbridges across Oakland Inner Harbor Tidal Canal, between Oakland and Alameda, California so that four hours advance notice for openings would be required from the waterway user to the bridge owner, between the hours 4:30 p.m. and 9 a.m. daily. With the exception of Federal Holidays, openings at all other times would be on signal except during interstate rush hours, 8 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, when the drawbridges need not be opened for vessels. However, the draws would open during the above closed periods for vessels which must, for reasons of safety, move on a tide or slack water, if at least four hours advance notice is given. The proposed rule is requested by Alameda County to reduce the bridge staffing requirements during periods of reduced openings.

DATES: Comments and related material must reach the Coast Guard on or before August 25, 2010.

ADDRESSES: You may submit comments identified by the Coast Guard docket number USCG-2009-0803 using any one of the following methods:

(1) Federal eRulemaking Portal: <http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) 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.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail David H. Sulouff, Chief, Bridge Section, Waterways Management Branch, 11th Coast Guard District, telephone 510-437-3516, e-mail address David.H.Sulouff@USCG.mil. 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.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0803), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered received by the Coast Guard when it is received at the Docket Management Facility. 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.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2009-0803" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand 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 and may change the rule based on your comments.

A request for comments has been published in the Coast Guard Local Notice to Mariners. All comments received will be included for the record in the electronic docket "USCG-2009-0803".

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>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2009-0803" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting, but you may submit a request using one of the four methods under **ADDRESSES**. Please explain 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 proposed rule would change the existing regulation. The existing regulation is found at 33 CFR 117.181 and delineates the following operating scheme: The draws of the Alameda County highway drawbridges at Park Street, mile 5.2; Fruitvale Avenue, mile 5.6; and High Street, mile 6.0; and the U.S. Army Corps of Engineers railroad drawbridge, mile 5.6 at Fruitvale Avenue, shall open on signal; except that, from 8 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. Monday through Friday except Federal holidays, the draws need not be opened for the passage of vessels. However, the draws shall open during the above closed periods for vessels which must, for reasons of safety, move on a tide or slack water, if at least two hours notice is given.

The proposed rule is requested by Alameda County to reduce the bridge staffing requirements during periods of reduced openings. The proposed rule is as follows: The draws of the Alameda County highway drawbridges at Park Street, mile 5.2; Fruitvale Avenue, mile 5.6; and High Street, mile 6.0; and the U.S. Army Corps of Engineers railroad drawbridge, mile 5.6 at Fruitvale Avenue, shall open on signal between the hours of 9 a.m. and 4:30 p.m. and upon 4 hours advance notice between the hours 4:30 p.m. and 9 a.m. During Interstate rush hours, 8 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays, the draws need not be opened for the passage of vessels. However, the draws shall open during the above rush hour periods for vessels which must, for reasons of safety, move on a tide or slack water, if at least four hours notice is given to the bridge owner. For the four hour advance notice requirement, waterway users may contact the Fruitvale Avenue drawbridge operator via telephone at (510) 533-7858 or VHF-FM marine radio, or by contacting the bridge operator during daytime bridge operating hours.

In support of their request for the regulation change, Alameda County provided the operating logs from the drawbridges to demonstrate a decrease in drawbridge openings for vessels over at least a 2 year period of time. The material submitted by the bridge owner will be entered in the electronic docket for the record.

The waterway traffic at this location is comprised of commercial, recreational, search and rescue, law enforcement and disaster response

vessels, and if necessary dredging, construction and salvage equipment, presently capable of circumnavigating the island of Alameda, CA, contingent upon tidal influences and vessel drafts. The Oakland Inner Harbor Tidal Canal is a lateral extension of San Francisco Bay.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR part 117 by amending § 117.181 for the Oakland Inner Harbor Tidal Canal. In addition to the existing rush hour periods when the drawbridges need not open for vessels, the revised language of the section would require the bridges to open on signal between the hours of 4:30 p.m. and 9 a.m. daily, provided four hours advance notice is given from vessel operators to Alameda County for drawbridge operation. For the four hour advance notice requirement, waterway users may contact the Fruitvale Avenue drawbridge operator via telephone at (510) 533-7858 or VHF-FM marine radio, or by contacting the bridge operator during daytime bridge operating hours. This would include vessels which must, for reasons of safety, move on a tide or slack water. At all other times the drawbridges will be required to open on signal for the safe passage of vessels.

The Coast Guard policy regarding the promulgation of drawbridge operation regulations requires that no regulation shall be implemented for the sole purpose of saving the bridge owner the cost to operate a bridge, nor to save wear and tear mechanically on a bridge. It is the bridge owner's statutory and regulatory responsibility to provide the necessary drawbridge tenders for the safe and prompt opening of a bridge and to maintain drawbridges in good operating condition.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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. This conclusion is based upon the fact that the proposed drawbridge regulation

change would only implement the advance notice times for bridge openings between the hours of 4:30 p.m. and 9 a.m. and for vessels which must, for reasons of safety, move on a tide or slack water, and the navigational impacts would be negligible. The Coast Guard determination to approve or deny the bridge owners request will be based upon the ability of the proposed regulation to meet the reasonable needs of navigation and not the cost to the bridge owner. A test of the proposed drawbridge operating regulation may be used by the Coast Guard to evaluate the actual impacts, during the appropriate navigational season timeframe, prior to making a final determination on the proposal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard must consider 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 requests comments to determine if this proposed rule would have a significant economic impact on a substantial number of small entities.

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 David Sulouff, Chief, Bridge Section, Waterways Management Branch, 11th Coast Guard District, at (510) 437-3516. 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 Information and Regulatory Affairs has not designated this 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 Department of Homeland Security Management Directive 023–01, and 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively 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.

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 § 117.181 to read as follows:

§ 117.181 Oakland Inner Harbor Tidal Canal.

The draws of the Alameda County highway drawbridges at Park Street, mile 5.2; Fruitvale Avenue, mile 5.6; and High Street, mile 6.0; and the U.S. Army Corps of Engineers railroad drawbridge, mile 5.6 at Fruitvale Avenue, shall open on signal between the hours of 9 a.m. and 4:30 p.m. and upon 4 hours advance notice between the hours 4:30 p.m. and 9 a.m. During Interstate rush hours, 8 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays, the draws need not be opened for the passage of vessels. However, the draws shall open during the above rush hour periods for vessels which must, for reasons of safety, move on a tide or slack water, if at least four hours notice is given to the bridge owner. For the four hour advance notice requirement; waterway users may contact the Fruitvale Ave drawbridge operator via telephone at (510) 533–7858 or VHF–FM marine radio, or by contacting the bridge operator during daytime bridge operating hours.

Dated: May 12, 2010.

J.R. Castillo,

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

[FR Doc. 2010–12737 Filed 5–26–10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0316]

RIN 1625–AA87

Security Zones; Sabine Bank Channel, Sabine Pass Channel and Sabine-Neches Waterway, TX

AGENCY: Coast Guard, DHS.