

This conclusion is based on the fact that most vessel traffic on the Mystic River can pass under the bridge without a bridge opening at various stages of the tide.

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.

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 would 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 E.O. 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 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. The Administrator of the Office of Information and Regulatory Affairs has not declared 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 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 environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out 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. In § 117.609, from July 26, 2004 through July 30, 2004, paragraph (a) is temporarily suspended and a new temporary paragraph (c) is added to read as follows:

§ 117.609 Mystic River.

* * * * *

(c) The draw of the S99 Bridge need not open for the passage of vessel traffic from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004.

Dated: June 3, 2004.

Vivien S. Crea,

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

[FR Doc. 04–13819 Filed 6–17–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–03–005]

RIN 1625–AA09

Drawbridge Operation Regulations; Connection Slough, Stockton, CA

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard has revised its proposal to amend the regulations governing the operation of the

Connection Slough Drawbridge. The revised proposal reopens the comment period. It emphasizes the continued availability of the drawspan to open for vessel passage, at any time, with advance notice dates and times adjusted, to coincide with documented seasonal reductions in navigation on the waterway. The proposal would ensure a bridge operator is present during identified increased navigation periods, and reduce the hours a drawbridge operator is required to be at the drawbridge and not gainfully employed.

DATES: Comments and related materials must be received by September 16, 2004.

ADDRESSES: Comments and related materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD11-03-005] and are available for inspection or copying at the Eleventh Coast Guard District, Bridge Office, Building 50-3, Coast Guard Island, Alameda, CA 94501-5100, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (510) 437-3516. The Coast Guard Bridge Office maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

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 [CGD11-03-005], 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 Coast Guard Bridge Section 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 drawbridge owner, Central California Redevelopment Company (CCRC Farms), requested changing the dates and times for advance notice for drawspan operation at their Reclamation District drawbridge, crossing Connection Slough between Mandeville and Bacon Islands, near Stockton, CA. The reason for the proposal is to reduce operating costs of the drawbridge while continuing to meet the reasonable needs of vessel traffic.

CCRC Farms provided drawbridge operating logs for a two-year period that documented a significant decrease in calls for operation of the drawspan between September 15 and May 15, annually, or between the hours of 5 p.m. and 9 a.m. This supports their request to adjust the existing advance notice period to more closely match the reduced navigational activity.

On September 22, 2003, we published a Notice of Proposed Rule Making (NPRM), entitled "Drawbridge Operation Regulations; Connection Slough, Stockton, CA" in the **Federal Register** (Volume 68, Number 183). The information was also published in the Coast Guard Local Notice to Mariners (LNM), 40/3, dated October 7, 2003.

The wording in the NPRM and LNM did not clearly emphasize that the drawspan will continue to be available for passage of vessels on a 24 hour, 7 day per week basis. It became apparent by the comments received that many waterway users are unfamiliar with the existing regulation, and unaware of their ability to have the drawspan open at any time by providing advance notice.

The NPRM requested comments no later than October 22, 2003, and did not provide sufficient comment period for the proposed rule. We continued to accept comments on the NPRM through February 2004.

Between September 22, 2003 and February 2004, we received approximately 220 letters and observed at least 2 articles in a local publication that objected to a reduced availability of the drawbridge to open for vessels. Apparently, the waterway users had not read or not understood the intent of the information contained in the **Federal Register** NPRM or the Coast Guard LNM prior to commenting, but reacted to comments promulgated locally by unofficial sources. For this reason, we will provide copies of this SNPRM, in writing, to the local media and to those who commented previously, to ensure

any replies to our office are based upon the official proposal.

The existing regulation, 33 CFR 117.150, requires the drawbridge, from May 1 through October 31, to open on signal between the hours of 6 a.m. and 10 p.m., and from November 1 through April 30, to open on signal between the hours of 9 a.m. and 5 p.m. All other times the drawbridge must open on signal if notice is given at least 4 hours in advance. The drawbridge must open upon 1-hour notice for emergency vessel operation.

It is important to note that the existing regulation presently allows the drawbridge owner to operate the drawbridge with advance notice, during certain dates and times. It does not allow the drawbridge to remain closed or to obstruct navigation, when the proper signals to open have been given. Many comments, received in response to the NPRM, indicated a lack of understanding of the existing advance notice operation. The Coast Guard will ensure signs are installed on the upstream and downstream sides of the drawbridge, in compliance with 33 CFR 117.55, to post the advance notice schedules, with telephone numbers and point of contact to be notified for drawbridge operation.

Discussion of Proposed Rule

The proposed changes are as follows: From May 15 through September 15 the drawbridge would open on signal between the hours of 9 a.m. and 5 p.m., and it would open upon 12 hours notice between the hours of 5 p.m. and 9 a.m. From September 16 through May 14 the bridge would open upon 12 hours notice between the hours of 9 a.m. and 5 p.m., and it would open upon 24 hours notice between the hours of 5 p.m. and 9 a.m. The proposed changes would lower the costs of operating the bridge for the bridge owner without significantly impacting navigation.

As proposed, this change would not reduce the availability of the drawspan to open for vessels. It would require mariners to contact the drawbridge earlier, when planning a transit through the drawbridge during the advance notice periods.

The proposed change would allow the drawbridge to be operated on an advance notice schedule, similar to other nearby drawbridges on adjacent channels in the Delta. It would allow CCRC Farms to utilize the drawbridge operator more effectively during documented navigational inactivity at the drawbridge, and still have the operator available at the drawbridge to provide an opening when a vessel arrives.

Should the proposed change be implemented and fail to meet the reasonable needs of vessel traffic, nothing in this proposal or the Final Rule would preclude review and adjustment of the regulation to ensure navigational needs are satisfied. In support of documenting the effectiveness of the proposed change, and potential future changes, the Coast Guard will require CCRC Farms continued submission of drawbridge operating logs and land traffic counts at this drawbridge.

Mariners are encouraged to notify the Coast Guard Bridge Office promptly of any alleged violation of drawbridge operating regulations, to allow effective investigation and correction of bridge-related discrepancies.

Since all drawbridges are subject to emergency operation in compliance with 33 CFR 117.31, the individual emergency operation text would be removed from the regulation.

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. Vessel counts derived from drawbridge operating logs and land traffic counts across the drawbridge were submitted by CCRC Farms in support of their request, showing little demand for bridge openings during the proposed periods of advance notice. Nothing in the proposed regulation change would relieve the bridge owner from the requirement to open the drawbridge for vessels, at any time, when the proper signals have been given. Therefore, the impact of the proposed regulation change is expected to be minimal.

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. No small entities were identified that would be affected by the proposed rule. Vessel traffic counts indicate the waterway users, presently requiring operation of the drawspan, would continue to receive the same level of service at the bridge. The proposal is to expand the existing advance notice periods for opening the drawbridge. The drawbridge will continue to be required to open for vessels at any time, when the proper signals have been given. Therefore, the impact of the proposed regulation change is expected to be minimal.

If you think your business, organization, or governmental jurisdiction qualifies as a small entity and 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.

Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). 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.

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 would 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.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 proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation, since promulgation of drawbridge regulations has been determined not to have any effect on the environment.

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 § 117.150 to read as follows:

§ 117.150 Connection Slough.

The draw of the Reclamation District No. 2027 bridge between Mandeville and Bacon Islands, mile 2.5, near Stockton, from May 15 through September 15, shall open on signal between the hours of 9 a.m. and 5 p.m., and it shall open upon 12 hours notice between the hours of 5 p.m. and 9 a.m. From September 16 through May 14 the bridge shall open upon 12 hours notice between the hours of 9 a.m. and 5 p.m., and it shall open upon 24 hours notice between the hours of 5 p.m. and 9 a.m.

Dated: June 9, 2004.

Kevin J. Eldridge,

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

[FR Doc. 04–13821 Filed 6–17–04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 04–186 and ET Docket No. 02–380; FCC 04–113]

Unlicensed Operation in the TV Broadcast Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Commission's rules to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used. We believe that the proposals set forth will provide for more efficient and effective use of the TV spectrum and will have significant benefits for the public by allowing the development of new and innovative types of unlicensed broadband devices and services for businesses and consumers.

DATES: Comments must be filed on or before September 1, 2004, and reply comments must be filed on or before October 1, 2004.

FOR FURTHER INFORMATION CONTACT:

Hugh VanTuyl, (202) 418–7506, email: Hugh.VanTuyl@fcc.gov or Alan Stillwell, (202) 418–2925, email: Alan.Stillwell@fcc.gov, Office of Engineering and Technology. e-mail: TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket No. 04–186 and ET Docket No. 02–380, FCC 04–113, adopted May 13, 2004, and released May 25, 2004. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov. Alternate formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 1, 2004, and reply comments on or before October 1, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Although this proceeding is captioned under multiple dockets, only one copy of an electronic submission, captioned to ET Docket No. 04–186, should be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

Summary of Notice of Proposed Rule Making

1. The Notice of Proposed Rule Making proposes to allow unlicensed radio transmitters to operate in the broadcast television spectrum at