

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

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined that this final rule does not significantly impact the environment.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 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(g); Department of Homeland Security Delegation No. 0170.1; § 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. Section 117.723 is amended by revising paragraph (c) to read as follows:

#### § 117.723 Hackensack River.

\* \* \* \* \*

(c) Except as provided in paragraphs (a)(1) of this section, the draw of the Amtrak Portal Bridge, mile 5.0, at Little Snake Hill, need not open for the passage of vessel traffic Monday through Friday, except Federal holidays, from 6 a.m. to 10 a.m. and from 4 p.m. to 8 p.m. Additional bridge openings shall be provided for commercial vessels from 6 a.m. to 7:20 a.m.; 9:20 a.m. to 10 a.m.; 4 p.m. to 4:30 p.m. and from 6:50 p.m. to 8 p.m., if at least a one-hour advance notice is given by calling the number posted at the bridge. At all other times the draw shall open on signal.

\* \* \* \* \*

Dated: September 25, 2005.

**David P. Pekoske,**

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

[FR Doc. 05-19952 Filed 10-4-05; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD11-05-028]

#### Drawbridge Operation Regulations; Sacramento River, Sacramento, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. This deviation allows the drawbridge to not open for vessel traffic and remain in the closed-to-navigation position. The deviation is necessary to rehabilitate the bridge deck.

**DATES:** This deviation is effective from 10 p.m. on October 16, 2005 through 7 a.m. on October 20, 2005.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (oan), Eleventh Coast Guard District, Building 50-3, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

**SUPPLEMENTARY INFORMATION:** California Department of Transportation (CalTrans) requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, Sacramento River, Sacramento, CA. The Tower Drawbridge navigation span provides vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. Presently, the draw is required to open on signal as required by 33 CFR 117.189. CalTrans requested the drawbridge be allowed to remain closed to navigation from 10 p.m. on October 16, 2005 to 7 a.m. on October 20, 2005.

During this time, CalTrans will rehabilitate the bridge deck on the drawspan and avoid the risks associated with trying to maintain the delicate mechanical balance necessary for drawspan operation. Navigation on the waterway consists of both commercial and recreational watercraft. The drawspan can be operated for emergency purposes with 4 hours' advance notice. Vessels that can pass through the bridge in the closed-to-navigation position may continue to do so at any time. This deviation to drawbridge regulating operations has been coordinated with the waterway users. No objections to the proposed deviation were received.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 23, 2005.

**Kevin J. Eldridge,**

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

[FR Doc. 05-19953 Filed 10-4-05; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD01-05-020]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Dorchester Bay, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the drawbridge operating regulations governing the operation of the William T. Morrissey Boulevard Bridge, at mile 0.0, across Dorchester Bay at Boston, Massachusetts. This change to the drawbridge operation regulations allows the bridge to remain in the closed position from November 1, 2005 through May 10, 2006. This action is necessary to facilitate scheduled bridge maintenance.

**DATES:** This rule is effective from November 1, 2005 through May 10, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-05-020) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On April 20, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Dorchester Bay, Massachusetts, in the *Federal Register* (70 FR 20489). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

**Background and Purpose**

The William T. Morrissey Boulevard Bridge, at mile 0.0 across Dorchester Bay, has a vertical clearance of 12 feet at mean high water and 22 feet at mean low water. The existing regulations at 33 CFR 117.597 require the draw to open on signal from April 16 through October 14, except that the draw need not open for vessel traffic from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m. except on Saturdays, Sundays, or holidays observed in the locality. From October 15 through April 15, the draw shall open on signal if at least twenty-four hours notice is given.

The bridge owner, the Department of Conservation and Recreation (DCR), asked the Coast Guard to temporarily change the drawbridge operation regulations to allow the bridge to remain in the closed position from November 1, 2005 through May 10, 2006, to facilitate

electrical rehabilitation construction at the bridge.

**Discussion of Comments and Changes**

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result of the above, no changes were made to this temporary final rule.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3), of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion is based on the fact that the only known users of the waterway, the Dorchester Yacht Club, will not be affected by this rule while it is in effect.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this 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 less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the only known user of the waterway, the Dorchester Yacht Club, will not be affected by this rule while it is in effect.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. No small entities requested Coast Guard assistance and none was given.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman

and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

**Collection of Information**

This rule calls 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 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 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 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 rule will 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern 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 does not have 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined

that this final rule does not significantly impact the environment.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 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(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

#### § 117.597 [Suspended]

■ 2. From November 1, 2005 through May 10, 2006, § 117.597 is suspended.

■ 3. From November 1, 2005 through May 10, 2006, § 117.T602 is temporarily added to read as follows:

#### § 117.T602 Dorchester Bay.

The draw of the William T. Morrissey Boulevard Bridge, mile 0.0, at Boston, need not open for the passage of vessel traffic from November 1, 2005 through May 10, 2006.

Dated: September 25, 2005.

**David P. Pekoske,**

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

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**BILLING CODE 4910-15-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

[WT Docket No. 02-353; FCC 05-149]

### Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission resolves five petitions for reconsideration of the *Report and Order* adopting service rules for Advanced Wireless Services (AWS) in the 1710-1755 and 2110-2155 MHz bands. In this Order, the Commission modifies the band plan and makes minor revisions to the service rules to provide additional opportunities for smaller and rural wireless carriers and to enhance flexibility for potential licensees. In all

other respects, the Commission denies the petitions for reconsideration. The Commission takes this action to facilitate the provision of new services to the public, and to encourage the optimum use of these frequencies.

**DATES:** Effective November 4, 2005.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Peter Corea of the Broadband Division, Wireless Telecommunications Bureau, at 202-418-BITS (2487) (voice) or 202-418-1169 (TTY).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order on Reconsideration* in WT Docket No. 02-353, FCC 05-149, adopted on August 5, 2005, and released on August 15, 2005. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (tty).

### Overview

1. On November 25, 2003, the Commission adopted licensing, technical, and competitive bidding rules to govern the use of the Advanced Wireless Services spectrum in the 1710-1755 and 2110-2155 MHz bands. This *Order on Reconsideration* resolves petitions for reconsideration of the service rules *Report and Order*. (Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, *Report and Order*, WT Docket No. 02-353, 69 FR 5711-01 (Feb. 6, 2004)). Specifically, this Order decides the following issues.

2. The AWS band plan for the 1710-1755 and 2110-2155 MHz bands is modified as follows. Twenty megahertz of spectrum at 1710-1720, paired with 2110-2120 will be licensed on a Rural Service Area/Metropolitan Statistical Area (RSA/MSA) basis. Thirty megahertz of spectrum in this band will be licensed on an Economic Area (EA) basis: 20 megahertz at 1720-1730 paired with 2120-2130, and 10 megahertz at 1730-1735 paired with 2130-2135. Forty megahertz of spectrum will be licensed on a Regional Economic Area Grouping (REAG) basis and these blocks