

Treasury is also exempting MSSB from the recordkeeping requirements of the rule with respect to any QFC entered into by MSSB with a clearing organization for the purpose of facilitating the clearance or settlement of any QFC subject to the exemption discussed above. As used in the exemption, the term “clearing organization” includes, among other things, clearing agencies registered with the SEC and derivatives clearing organizations registered with the CFTC.¹⁸ The records required by the rule regarding such clearing organization QFCs should not be needed by the FDIC to address the clearance or settlement of MSSB’s exempted customer QFCs.

Further, given the limited nature of MSSB’s business and the limited types of QFCs entered into by MSSB with its clients, Treasury is exempting MSSB from the recordkeeping requirements of the rule with respect to any QFC between MSSB and an affiliate of MSSB if (i) the affiliate is required to maintain the records described in section 148.4 of the rule and (ii) the QFC is entered into by MSSB in order to enable MSSB to fulfill its obligations under QFCs with its customers or to hedge risk arising from QFCs with its customers. Such QFCs could include, for example, a securities lending agreement MSSB may enter into with an affiliate in order to obtain securities to lend to MSSB’s customers or a QFC MSSB may enter into with an affiliate to hedge risk arising from QFCs MSSB engages in with its customers. Treasury is limiting the scope of this exemption to QFCs with affiliates of MSSB that are themselves records entities because if the FDIC is appointed as receiver of MSSB, the FDIC would, by reference to records of the inter-affiliate QFCs maintained by such affiliated records entities, be able to decide whether or not to transfer such QFCs to a bridge financial company. Treasury has determined not to provide an exemption with respect to such QFCs with affiliates of MSSB that are not records entities because the size of such QFCs and the risks they impose could be such that the FDIC would need the records required by the rule to make a transfer determination.

Conditions of the Exemption

The exemption granted below is based on the factual representations made by Morgan Stanley on behalf of MSSB to

¹⁸ The exemption cross-references the definition from section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, 12 U.S.C. 4402.

Treasury, the FDIC, the SEC, and the CFTC in its submissions, including the factual representations regarding MSSB’s registration as a broker-dealer, investment advisor, and introducing broker, the limitations on its business lines, the limitations on the types of clients it serves and the types of products and services it offers its clients, the frequency, size, and dollar amounts of QFCs with clients, the lack of complexity of the QFCs it has with clients, and the number of client accounts it maintains.

Treasury reserves the right to rescind or modify the exemption at any time. Further, Treasury intends to reassess the exemption in five years. At that time, Treasury, in consultation with the FDIC and the primary financial regulatory agencies, would evaluate any material changes in the nature of MSSB’s business as well as any relevant changes to market structure or applicable law or other relevant factors that might affect the reasons for granting the exemptions. Treasury may request an updated submission from MSSB as to its business at that time. Treasury expects that it would provide notice to MSSB prior to any modification or rescission of the exemption and that, in the event of a rescission or modification, Treasury would grant MSSB a limited period of time in which to come into compliance with the applicable recordkeeping requirements of the rule.

Terms and Conditions of the Exemption

MSSB is hereby granted an exemption from the requirements of 31 CFR 148.3 and 148.4 for (i) any QFC entered into by MSSB with or on behalf of any customer of MSSB that is booked and carried in accounts at MSSB maintained for the benefit of such customer; (ii) any QFC entered into by MSSB with a clearing organization in order to facilitate the clearance or settlement of any QFC referenced in clause (i); and (iii) any QFC entered into by MSSB with an affiliate of MSSB in order to enable MSSB to fulfill its obligations under QFCs referenced in clause (i) or to hedge risk arising from QFCs referenced in clause (i), provided that such affiliate is a records entity required to maintain the records specified in 31 CFR 148.4. For purposes of the exemption, “customer” means a person who is a customer as defined in 15 U.S.C. 7811(2) with respect to any transactions or accounts it has with MSSB, and “clearing organization” has the meaning provided in 12 U.S.C. 4402.

The exemption is subject to modification or revocation at any time the Secretary determines that such action is necessary or appropriate in

order to assist the FDIC as receiver for a covered financial company in being able to exercise its rights and fulfill its obligations under sections 210(c)(8), (9), or (10) of the Act. The exemption extends only to MSSB and to no other entities.

Dated: December 17, 2018.

Peter Phelan,

Deputy Assistant Secretary for Capital Markets.

[FR Doc. 2018–28074 Filed 12–26–18; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0926]

RIN 1625–AA09

Drawbridge Operation Regulation; Hudson River, Albany and Rensselaer, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the CSX Transportation Bridge (alternatively referred to as the “Livingston Ave Bridge”) across the Hudson River, mile 146.2, between Albany and Rensselaer, New York. The bridge owner, National Railroad Passenger Corporation (Amtrak), submitted a request to allow the bridge to require four hours notice for bridge openings. This final rule would extend the notice required for bridge opening during the summer months due to the infrequent number of requests, and reduce burden on the bridge tender.

DATES: This rule is effective January 28, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG–2017–0926 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Miss Stephanie E. Lopez, Bridge Management Specialist, First Coast Guard District, telephone (212) 514–4335, email Stephanie.E.Lopez@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 DHS Department of Homeland Security
 FR Federal Register
 OMB Office of Management and Budget
 NPRM Notice of Proposed Rulemaking
 (Advance, Supplemental)
 § Section
 U.S.C. United States Code

II. Background Information and Regulatory History

On August 10, 2018, the Coast Guard published a notice of proposed rulemaking entitled “Proposed Rule Drawbridge Operations: Hudson River, Albany and Rensselaer, New York” in the **Federal Register** (83 FR 39636). No comments were received on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The CSX Transportation Bridge (Livingston Ave) Bridge at mile 146.2, across the Hudson River, between Albany and Rensselaer, New York, has a vertical clearance of 25 feet at mean high water and 32 feet at mean low water. Vertical clearance is unlimited when the draw is open. Horizontal clearance is approximately 98 feet.

The existing drawbridge regulation is 33 CFR 117.791(c). The existing regulation requires the draw of the Livingston Avenue Bridge to open on signal; except that, from December 16 through March 31, the draw shall open on signal if at least 24 hours notice is given.

The owner of the bridge, National Railroad Passenger Corporation, requested a change to the drawbridge operating regulations to allow the bridge owner to require 4 hours notice before the draw opens on signal between April 1 and December 15, 11 p.m. and 7 a.m. due to infrequent requests to open the bridge. This rule change will allow for more efficient and economical operation of the bridge while still meeting the needs of navigation.

Review of the bridge logs in the last three years between 11 p.m. and 7 a.m. from April 1 to December 15 shows that the bridge averages 24 openings during this period per year. The waterway users include recreational and commercial vessels including tugboat/barge combinations as well as tour/dinner boats.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided 60 days for comment and no comments were received. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

V. Discussion of Final Rule

The rule provides that from April 1 through December 15; between the hours of 7:00 a.m. and 11:00 p.m., the draw shall open on signal, and between the hours of 11:00 p.m. and 7:00 a.m., the draw shall open on signal if at least 4 hours notice is given. It is our opinion that this rule meets the reasonable needs of marine and rail traffic.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the ability that vessels can still open the draw and transit the bridge given advanced notice. We believe that this change to the drawbridge operation regulations at 33 CFR 117.791(c) will meet the reasonable needs of navigation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 rule will not have a significant economic impact on a substantial number of small entities.

The bridge provides 25 feet of vertical clearance at mean high water that should accommodate all the present vessel traffic except deep draft vessels. The bridge will continue to open on

signal for any vessel provided at least 4 hour advance notice is given.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section VI.A above, this rule will not have a significant economic impact on any vessel owner or operator. 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 rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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). 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.

C. 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).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

E. 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 (adjusted for inflation) 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and 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 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. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed 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; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.791(c) to read as follows:

§ 117.791 Hudson River.

* * * * *

(c) The draw of the CSX Transportation Bridge, mile 146.2 between Albany and Rensselaer, shall open on signal; except that, from April 1 through December 15, from 11:00 p.m. to 7:00 a.m., the draw shall open on signal if at least 4 hours notice is given and from December 16 through March 31, the draw shall open on signal if at least 24 hours notice is given.

* * * * *

Dated: December 3, 2018.

A.J. Tionsong,

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

[FR Doc. 2018–28122 Filed 12–26–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–1093]

RIN 1625–AA00

Safety Zone; Ohio River, Miles 73 to 74, Wellsburg, WV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River, extending the entire width of the river, from mile marker (MM) 73 to MM 74. This safety zone is necessary to protect persons, property, and the marine environment from potential hazards associated with a fireworks display. Entry of persons or vessels into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

DATES: This rule is effective from 11:30 p.m. on December 31, 2018 through 12:45 a.m. on January 01, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–1093 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Charles Morris,

Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email Charles.F.Morris@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 COTP Captain of the Port Marine Safety Unit Pittsburgh
 DHS Department of Homeland Security
 FR Federal Register
 MM Mile marker
 NPRM Notice of proposed rulemaking
 § Section
 U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This safety zone must be established by December 31, 2018 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the date of the fireworks display and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with this fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) has determined that potential hazards associated with this fireworks display will be a safety hazard for anyone within a half-mile stretch of the Ohio River. The rule is needed to protect persons, property, and the marine environment in the navigable waters within the safety zone before, during, and after the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 11:30 p.m. December 31, 2018 to