

TABLE 1 of § 100.801—Continued

Date: 2 Days—3rd Friday & Saturday in September
Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX
Buccaneer Days Fireworks Display
Sponsor: Buccaneer Commission, Inc.
Date: 1 Day—Last Friday in April or First Friday in May
Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX
Corpus Christi 4th of July Fireworks Display
Sponsor: City of Corpus Christi
Date: 1 Day—4th of July
Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX
Harbor Lights
Sponsor: City of Corpus Christi
Date: 1 Day—1st Saturday in December
Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX

Dated: December 7, 1998.

Paul J. Pluta,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-97-098]

RIN 2115-AE47

Drawbridge Operation Regulations: Taunton River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating rules for the Brightman Street Bridge, mile 1.8, over the Taunton River between Somerset and Fall River, Massachusetts

This final rule requires one hour's advance notice during the winter months at night and two hours' on Christmas and New Year's day. This change to the regulations will remove the requirement to crew the bridge because there have been few requests to open the bridge during the above time periods.

DATES: This final rule is effective January 21, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Ma. 02110-3350, between 7 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364.

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

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Taunton River, MA., in the **Federal Register** (63 FR 27241) on May 18, 1998. The Coast Guard received three comment letters in response to the notice of proposed rulemaking. A public hearing was requested. The Coast Guard did not hold a public hearing because the Coast Guard determined that an opportunity for oral comments would not aid in this rulemaking. All the comments were the same. The bridge-opening logs did not support the claims in the comment letters. The logs showed very few openings historically during the times the bridge will be in a one-hour advance-notice status, and no new information was submitted to justify a need to have the bridge crewed at all times. The record clearly indicated that there were only a few openings at night in the winter months.

Background

The Brightman Street Bridge has a vertical clearance at mean high water (MHW) of 27 feet and at mean low water (MLW) of 31 feet. The bridge is presently required to open on signal at all times. The bridge owner, Massachusetts Highway Department (MHD), requested that the Coast Guard consider a change to the operating regulations for the Brightman Street Bridge to require one hour's advance notice for openings from November 1 through March 31, between 6 p.m. and 6 a.m., and two hours' from 6 p.m. to midnight on December 24th, all day on December 25th, and all day on January 1st.

The bridge-opening logs for the Brightman Street Bridge documented openings November 1st through March 31st, 6 p.m. to 6 a.m., as follows: 1995-1996, 11 openings; 1996-1997, 15 openings; and 1997-1998, 20 openings. The Coast Guard believes that it is

reasonable to allow this bridge to operate on one-hour's advance notice during the three days because there have been so few requests to open the bridge during them. The advance notice requirement for December 24th and 25th and January 1st has been granted each year by the Coast Guard as a result of a written request from the bridge owner. There have been no requests to open the bridge on those days according to the bridge-opening logs. This final rule will make the holiday advance-notice requirement for these three days a permanent part of the bridge operating regulations and will also change the regulations to relieve the bridge owner of the present requirement to crew the bridge during the winter months at night November 1st through March 31st from 6 p.m. to 6 a.m. daily.

Discussion of Comments and Changes

The Coast Guard received two comment letters in response to the notice of proposed rulemaking during the comment period. Both comment letters opposed the advance notice requirement during the winter months at night. The letters were from an attorney representing Shaws Boat Yard and Somerset Marina, Inc. The letters were identical in content. The letters requested a public hearing to discuss the proposed regulations, claiming that 65% to 75% of all hauling and launching of vessels at their facilities occur at night, November through March from 6 p.m. to 6 a.m. daily. The marinas indicated concern that they could lose business as a result of the bridge being placed on one hour's advance notice for openings during the winter months at night. They believe that the mariners would not be willing to provide the required one hour's notice for bridge openings. The bridge-opening logs for the last three years do not support this claim. The Coast Guard reached a decision for this final rule based upon the factual log data.

The bridge owner will be required by this final rule to open the bridge no longer than one hour after notice is given to open the bridge from November 1st through March 31st from 6 p.m. to 6 a.m. daily. The bridge log data from the last three years, 1995–1996, 1996–1997, and 1997–1998, November through March, indicate eleven (11), fifteen (15), and twenty (20) openings respectively. The total number of days November through March is one hundred fifty-one (151) days. Eleven, fifteen and twenty bridge openings during the last three years does not support the need to require a drawtender to be present at the bridge at all times. The mariners are not being prevented from using the bridge but are just being asked to provide one hour's advance notice for bridge openings during this time period.

A third letter was received from the marinas after the comment period closed proposing an alternative schedule. The proposal would require the on call period to begin on November 20th and end March 15th instead of November 1st to March 31st. The marinas claimed that they needed openings during this time period. The Coast Guard reviewed this alternative proposal in an effort to balance the needs of both the mariners and the bridge owner. The logs indicated 4 openings last winter during the evening from November 1st to November 20th and no openings in the evening from March 15th to March 31st. The log data simply did not show a need to crew the bridge the extra month this alternate proposal would require considering that a drawtender will be required, by this rule, to be at the bridge within an hour after notice is given for an opening.

In light of the data reviewed, the Coast Guard believes that the request to require one hour's notice during the winter night time hours is reasonable. The mariners can still pass through the bridge at all times so long as they provide this notice. No hearing was held, and no changes have been made to this rule.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The

Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that bridges must operate in accordance with the needs of navigation while providing for the reasonable needs of land transportation. This final rule adopts the operating hours which the Coast Guard believes to be appropriate because there have been so few requests to open the bridge during the time period the bridge will be on an advance notice status. The proposed advance notice requirements should still provide for the current needs of navigation and allow the bridge owner to not crew the bridge during periods when there are few requests to open the bridge. The Coast Guard believes this final rule achieves the requirement of balancing the needs of navigation and the needs of vehicular transportation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include 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. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Figure 2–1, paragraph 32(e), of Commandant

Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

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; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.619 is revised to read as follows:

§ 117.619 Taunton River.

(a) The owners of the Brightman Street and Bristol County bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than twelve inches high, designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

(b) The draw of the Brightman Street Bridge, mile 1.8, between Somerset and Fall River shall open on signal; except that from November 1 through March 31, between 6 p.m. and 6 a.m. daily, the draw shall open if at least one hour's advance notice is given and that, from 6 p.m. to midnight on December 24th and all day on December 25th and January 1st, the draw shall open on signal if at least two hours' notice is given. Please give all notice by calling the number posted at the bridge.

(c) The Bristol County Bridge, mile 10.3, shall open on signal if at least twenty-four hours' notice is given by calling the number posted at the bridge.

Dated: December 10, 1998.

R.M. Larrabee,

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

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