

**§ 12.132 [Amended]**

2. In § 12.132, paragraph (b) is amended by removing the last sentence.

Approved: October 24, 1995.

George J. Weise,

*Commissioner of Customs.*

Dennis M. O'Connell,

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 95-29001 Filed 11-27-95; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD01-94-094]

RIN 2115-AE47

**Drawbridge Operation Regulations; Merrimack River, MA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating rules governing the Newburyport US1 Bridge at mile 3.4, over the Merrimack River in Newburyport, Massachusetts, by requiring a one hour advance notice for openings during the winter months. This rule is being changed because the waterway is often frozen during the winter and there have been few requests for bridge openings. This will relieve the bridge owner of the burden of posting personnel at the bridge during the winter months.

**EFFECTIVE DATE:** December 28, 1995.

**ADDRESSES:** Documents referred to in this preamble are available for copying and inspection at the First Coast Guard District, Bridge Branch office located in the Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110-3350, room 628, between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223-8364.

**FOR FURTHER INFORMATION CONTACT:**

John W. McDonald, Project Manager, Bridge Branch, (617) 223-8364.

**SUPPLEMENTARY INFORMATION:****Drafting Information**

The principal persons involved in drafting this final rule are Mr. John W. McDonald, Project Officer, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

**Regulatory History**

On December 12, 1994 the Coast Guard published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; Merrimack River, Massachusetts" in the Federal Register (59 FR 63944). The Coast Guard received no comments on the notice of proposed rulemaking. No public hearing was requested, and none was held.

**Background and Purpose**

The Newburyport US1 Bridge over the Merrimack River in Newburyport, Massachusetts has a vertical clearance of 35' above mean high water (MHW) and 42' above mean low water (MLW). The Merrimack River is frozen during most of the winter and there have been few requests for bridge openings during this period. The previous rule required the bridge to open on signal from May 1 to October 31, 6 a.m. to 10 p.m. This final rule will extend the period during which the bridge will open on signal: from May 1 to November 15, from 6 a.m. to 10 p.m. This final rule will require at least a one hour advance notice for openings at all other times.

**Discussion of Comments and Changes**

The Coast Guard received no comments on the notice of proposed rulemaking. Therefore, no changes to the proposed rule were made.

**Regulatory Evaluation**

This 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 been exempted from review 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 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 this rule will not prevent mariners from passing through the Newburyport US1 Bridge, but will only require mariners to plan their transits.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently

owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above, 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.

**Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**Federalism**

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

**Environment**

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 117****Bridges.**

For the reasons set out in the preamble, the Coast Guard is amending 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 117.605 is amended by revising paragraph (a) to read as follows:

**§ 117.605 Merrimack River.**

(a) The draw of Newburyport US1 Bridge, mile 3.4, shall open on signal from May 1 through November 15, from 6 a.m. to 10 p.m. At all other times the draw shall open on signal if at least one hour advance notice is given by calling the number posted at the bridge.

\* \* \* \* \*

Dated: July 6, 1995.

J.L. Linnon,

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

[FR Doc. 95-29047 Filed 11-27-95; 8:45 am]

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### 33 CFR Part 165

[CGD07-94-094]

RIN 2115-AE84

#### Regulated Navigation Area; Tampa Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a regulation requiring certain vessels to make a navigation advisory broadcast when approaching or reaching points within Tampa Bay. The required navigation advisory broadcasts are designed to minimize the hazards associated with navigation in Tampa Bay and enhance safety by making vessel operators aware of the movements of other vessels in the area. This action establishes a permanent regulation which requires vessel navigational advisory broadcasts that have previously been voluntary.

**EFFECTIVE DATE:** This rule is effective on December 28, 1995.

**FOR FURTHER INFORMATION CONTACT:** LT Dirk Greene, Coast Guard Marine Safety Office Tampa at (813) 228-2189.

**SUPPLEMENTARY INFORMATION:** On November 8, 1994, the Coast Guard published a notice of proposed rulemaking in the Federal Register for this regulation (Volume 59, No. 215, FR 55602). Interested parties were requested to submit comments and none were received.

#### Drafting Information

The drafters of this regulation are LT Dirk A. Greene, project officer for Coast Guard Marine Safety Office, Tampa, and LTJG Julia Diaz, project attorney, Seventh Coast Guard District Legal Office.

#### Discussion of Comments

Marine Safety Office Tampa did not receive any comments by the end of the comment period, January 9, 1995. The Tampa Bay Pilots Association responded after the comment period was over requesting a minor change in the order of information broadcast. This change has been made. The words "Navigational Advisory Broadcasts" replace the words "Security Broadcasts" to reflect requirements contained in the Federal Communication Commission

regulations. These changes are considered minor and do not change the intent of the regulation as published in the NPRM.

#### Discussion of Regulations

As the result of marine casualties occurring in the Tampa Bay entrance channels, the existing voluntary navigational advisory broadcast program established in the Coast Pilot will be made mandatory. This navigational advisory broadcast program gives master, pilots, and persons in charge of vessels real-time information on the density of marine traffic in Tampa Bay as required by 33 CFR 164.11 (p)(5). The navigational advisory broadcast program also supplements the Vessel Bridge to Bridge Radiotelephone Regulations contained in 33 CFR 26. The Captain of the Port has determined that these requirements are necessary to reduce the likelihood of any adverse incidents while transiting Tampa Bay. The chance of a collision will be further minimized by requiring masters, pilots, or persons in charge of all vessels over 50 meters in length to make navigational advisory broadcasts when approaching or reaching the broadcast/report points specifically listed under "Final Regulations."

Nothing in these procedures would supersede the Navigation Rules or relieve the Master or person in charge of a vessel of responsibility for the safe navigation of the vessel.

#### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Economic Assessment and Certification

This regulation 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 been exempted from review 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 action to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is not necessary. The security broadcast system has been followed on a voluntary basis for at least five (5) years and all vessels affected are

required by 33 CFR 26 to have radiotelephone equipment. Since the impact of this is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

#### Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion checklist has been prepared and is available.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

#### Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations as follows:

#### PART 165—[AMENDED]

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

1. A new section 165.753 is added to read as follows:

#### § 165.753 Regulated navigation area; Tampa Bay, Florida.

(a) The following is a regulated navigation area (RNA): All the navigable waters of Tampa Bay, Hillsborough Bay and Old Tampa Bay, including all navigable waterways tributary thereto. Also included are the waters of Egmont Channel, Gulf of Mexico from Tampa Bay to the seabuoy, Tampa Lighted Whistle Buoy T, LLNR 18465.

(b) The master, pilot, or person in charge of any vessel of 50 meters or greater shall give a Navigational Advisory Broadcast in accordance with 47 CFR 80.331 on VHF-FM channel 13 at the following broadcast/reporting points:

- (1) Prior to getting underway from any berth or anchorage;
- (2) Prior to entering Egmont Channel from seaward;
- (3) Prior to passing Egmont Key in any direction;
- (4) Prior to transiting the Skyway Bridge in either direction;
- (5) Prior to transiting the intersection of Tampa Bay Cut F Channel, Tampa Bay Cut G Channel, and Gadsden Point Cut Channel;
- (6) Prior to anchoring or approaching a berth for docking;