

the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of \$100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

#### *Executive Order 12372*

The Child and Adult Care Food Program is listed in the Catalog of Federal Domestic Assistance under No. 10.558. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V and related Notice published at 48 FR 29114, June 24, 1983, this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

#### *Executive Order 13132*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in terms of three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. This final rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

#### *Executive Order 12988*

The rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its

provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the Dates paragraph of the rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Child and Adult Food Care Program, the administrative procedures are set forth at 7 CFR 226.6(k), which establishes appeal procedures and 7 CFR 226.22 and 7 CFR parts 3016 and 3019, which address administrative appeal procedures for disputes involving procurement by State agencies and institutions.

#### *Civil Rights Impact Analysis*

FNS has reviewed this final rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that there is no negative effect on these groups. All data available to FNS indicate that protected individuals have the same opportunity to participate in the CACFP as non-protected individuals. Regulations at 7 CFR 226.6(f)(1) require that CACFP institutions agree to operate the Program in compliance with applicable Federal civil rights laws, including title VI of the Civil Rights Act of 1964, title IX of the Education amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Department's regulations concerning nondiscrimination (7 CFR Part 15, 15a, and 15b). At 7 CFR 226.6(m)(1), State agencies are required to monitor CACFP institution compliance with these laws and regulations.

#### *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collections of information unless it displays a current valid OMB control number. The rule does not contain any information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

#### *E-Government Act Compliance*

FNS is committed to complying with the E-Government Act, to promote the use of the Internet and other

information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### **List of Subjects in 7 CFR Part 226**

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, American Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

#### **PART 226—CHILD AND ADULT CARE FOOD PROGRAM**

Accordingly, the interim rule amending 7 CFR part 226, which was published at 70 FR 43259 on July 27, 2005, is adopted as a final rule without change.

Dated: October 13, 2006.

**Roberto Salazar,**

*Administrator, Food and Nutrition Service.*

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#### **DEPARTMENT OF HOMELAND SECURITY**

##### **Coast Guard**

##### **33 CFR Part 117**

[CGD01-06-051]

**RIN 1625-AA09**

##### **Drawbridge Operation Regulations; Saugus River, Lynn and Revere, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard has temporarily changed the drawbridge operation regulations that govern the operation of the General Edwards SR1A Bridge, mile 1.7, across the Saugus River, between Lynn and Revere, Massachusetts. This temporary final rule allows the bridge to remain in the closed position from November 1, 2006 through April 30, 2007. This action is necessary to facilitate structural maintenance at the bridge.

**DATES:** This rule is effective from November 1, 2006 through April 30, 2007.

**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 (CGD01-06-051) 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 McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This shortened notification period is reasonable because the bridge repairs facilitated by this temporary final rule are vital, necessary repairs that must be performed in order to assure the continued safe and reliable operation of the bridge.

The time period selected to make the necessary repairs, November 1, 2006 through April 30, 2007, is the earliest time period that the work can be performed without disrupting the marine transportation system.

On July 11, 2006, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations"; Saugus River, Lynn and Revere, Massachusetts, in the **Federal Register** (71 FR 39028). 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 General Edwards SR1A Bridge at mile 1.7, across the Saugus River, has a vertical clearance of 27 feet at mean high water and 36 feet at mean low water. The existing regulations at 33 CFR 117.618(b) required the draw to open on signal, except that, from April 1 through November 30, midnight to 8 a.m. an eight-hour notice is required. From December 1 through March 31, an eight-hour notice is required at all times for bridge openings.

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, 2006, through April 30, 2007, to complete structural rehabilitation construction at the bridge. The bridge was closed during the same time period from November 2005 through April 2006, to perform the first phase of this rehabilitation work. Work could not be completed during the closure period in 2005-2006, necessitating a second closure period in 2006-2007.

**Discussion of Comments and Changes**

The Coast Guard received no comments in response to the notice of

proposed rulemaking and as a result, no changes have been 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.

This conclusion is based on the fact that the bridge rarely opens during the November through April time period.

**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 bridge rarely opens during the November through April time period.

**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 now 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 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 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 final 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 and Department of Homeland Security Management Directive 5100.1, which guide 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 considering that it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e), of the instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

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

■ 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.

■ 2. From November 1, 2006 through April 30, 2007, § 117.618(b) is suspended and a new paragraph (d) is added to read as follows:

**§ 117.618 Saugus River.**

\* \* \* \* \*

(d) The draw of the General Edwards SR1A Bridge at mile 1.7, need not open for the passage of vessel traffic from November 1, 2006 through April 30, 2007.

Dated: October 13, 2006.

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

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