

taxpayer determines its tax liability under § 1.469-4, rather than under the rules of Project PS-1-89, the taxpayer may regroup its activities without regard to the manner in which the activities were grouped in the preceding taxable year and must regroup its activities if the grouping in the preceding taxable year is inconsistent with the rules of § 1.469-4.

(iii) *Regrouping when taxpayer is first subject to section 469(c)(7)*. For the first taxable year beginning after December 31, 1993, a taxpayer may regroup its activities to the extent necessary or appropriate to avail itself of the provisions of section 469(c)(7) and without regard to the manner in which the activities were grouped in the preceding taxable year.

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**Margaret Milner Richardson,**

*Commissioner of Internal Revenue.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD01-94-104]

RIN 2115-AE47

#### **Drawbridge Operation Regulations; West Bay, Osterville, MA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is considering a change to the regulations governing the West Bay Bridge at mile 1.2 over West Bay in Osterville, Massachusetts. The special operating regulations formerly published at 33 CFR 117.78 were deleted in error. The bridge has not been operating in accordance with the existing general regulations. This proposal would correct the deletion error and publish the correct operating regulations for the bridge.

**DATES:** Comments must be received on or before March 13, 1995.

**ADDRESSES:** Comments should be mailed to Commander (obr), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave, Boston, Massachusetts 02110-3350. Comments may also be hand-delivered to room 628 at the same address between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223-8364. Comments will become part

of this docket and will be available for inspection or copying at the above address.

#### **FOR FURTHER INFORMATION CONTACT:**

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-94-104), the specific section of this proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bounded material is requested. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the period, and may change this proposal in light of comments received. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (obr), First Coast Guard District at the address listed under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

##### **Drafting Information**

The drafters of this notice are Mr. John McDonald, Project Manager, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

##### **Background and Purpose**

The West Bay Bridge over West Bay in Osterville, Massachusetts has a vertical clearance of 15' above mean high water (MHW) and 17' above mean low water (MWL). Through an error, the special operating regulations for this bridge were deleted from 33 CFR 117.78. Therefore, the bridge is required to open on signal at all times under the general drawbridge operating regulations. Regulations published in the **Federal Register** of October 7, 1982 (47 FR 44258) read as follows:

(a) The draw shall open on signal from April 1 through October 31 on the following schedule:

(1) April 1 through June 14 and October 12 through October 31; 8 a.m. to 4 p.m.

(2) June 15 through June 30; 8 a.m. to 6 p.m.

(3) July 1 until Labor Day; 8 a.m. to 8 p.m.

(4) Labor Day through October 11; 8 a.m. to 5 p.m.

(5) For the remainder of this period the draw will open on signal if 4 hours notice is given in advance.

(b) From November 1 through March 31 the draw shall open on signal if a 24-hour notice is given in advance.

The bridge owner, the Massachusetts Highway Department (MHD), has been operating the bridge in accordance with the deleted regulations on an unofficial basis. The Coast Guard is proposing to publish regulations that reinstate the operating hours of the bridge contained in the erroneously deleted rule.

##### **Discussion of Proposed Amendments**

The MHD, after being advised of the deletion of the regulations covering its West Bay Bridge, has requested that operating hours be published to read as follows:

(a) The draw shall open on signal from April 1 through October 31 on the following schedule:

(1) From April 1 through June 14 and October 12 through October 31; 8 a.m. to 4 p.m.

(2) June 15 through June 30; 8 a.m. to 6 p.m.

(3) July 1 until Labor Day; 8 a.m. to 8 p.m.

(4) Labor Day through October 11; 8 a.m. to 5 p.m.

(5) At all other times from April 1 through October 31, the draw shall open on signal if at least four (4) hours advance notice is given by calling the number posted at the bridge.

(b) From November 1 through March 31, the draw shall open if at least twenty-four (24) hours advance notice is given by calling the number posted at the bridge.

The drawtenders will be on call to open the draw when the advance notice is given.

##### **Regulatory Evaluation**

This proposal 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 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 the regulation will