

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[CGD08-05-004]

RIN 1625-AA09

Drawbridge Operation Regulation; Houma Navigation Canal, Houma, LA**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulation governing the operation of the SR 661 (Houma Nav Canal) swing bridge across the Houma Navigation Canal, mile 36.0, in Houma, Louisiana. An increase in traffic during the noontime time period has facilitated a request to allow the bridge to remain closed to navigation for two (2), 30-minute periods in the middle of the day. These closures will allow local workers to transit the area with minimal delays during the noontime lunch period.

DATES: Comments and related material must reach the Coast Guard on or before March 29, 2005.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130-3310. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone 504-589-2965.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08-05-004], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose

a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The U.S. Coast Guard, at the request of the State of Louisiana, Department of Transportation and Development (LDOTD), and supported by the Terrebonne Parish Council, proposes to modify the existing operating schedule of the SR 661 (Houma Nav Canal) swing bridge across the Houma Navigation Canal, mile 36.0, in Houma, Terrebonne Parish, Louisiana. The modification of the existing regulations will allow the bridge to remain closed to navigation for two (2), 30-minute periods in the middle of the day to allow for local workers to transit the area with minimal delays during the noontime lunch period.

Currently, the bridge opens on signal; except that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

Approximately 9,500 vehicles cross the bridge daily, 6% of which cross the bridge during the requested noon closure times. The bridge averages 932 openings a month. The requested two (2), 30-minute closures will delay approximately 133 additional tows a month for a maximum of 30 minutes. The average length of a bridge opening is approximately nine minutes, delaying an average of 44 vehicles per opening during the noontime bridge openings.

Navigation at the site of the bridge consists primarily of tugboats with barges. Alternate routes are available but not readily accessible.

Discussion of Proposed Rule

The proposed rule would modify the existing regulation in 33 CFR 117.455 to facilitate the movement of high volumes of vehicular traffic across the bridge during noontime lunch periods. The change would allow the SR 661 (Houma Nav Canal) bridge, mile 36.0, at Houma, to remain closed to navigation from

11:45 a.m. to 12:15 p.m. and from 12:45 p.m. to 1:15 p.m. in addition to the presently published times of 6:30 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m. Monday through Friday except Federal holidays.

Regulatory Evaluation

This proposed 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This proposed rule allows vessels ample opportunity to transit this waterway with proper notification before and after the peak vehicular traffic periods. According to the vehicle traffic surveys, the public at large is better served by the additional closure times during the noontime lunch periods.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities: the owners and operators of vessels needing to transit the bridge from 11:45 a.m. to 12:15 p.m. and from 12:45 p.m. to 1:15 p.m. on weekdays.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Eighth Coast Guard District Bridge Administration Branch at the address above. 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.

Collection of Information

This proposed rule would call for no 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 proposed 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under 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 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 proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of NEPA. Since this proposed rule will alter the normal operating conditions of the drawbridge, it falls within this exclusion.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.455 is revised to read as follows:

§ 117.455 Houma Navigation Canal.

The draw of SR 661 (Houma Nav Canal) bridge, mile 36.0, at Houma, shall open on signal; except that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m., from 11:45 a.m. to 12:15 p.m., from 12:45 p.m. to 1:15 p.m. and from 4:30 p.m. to 6 p.m.

Dated: January 13, 2005.

R. F. Duncan,

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