



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0988]

RIN 1625-AA09

Drawbridge Operation Regulation; Detroit River (Trenton Channel), Grosse Ile, MI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule of the Grosse Ile Toll Bridge (Bridge Road) at mile 8.8, over Trenton Channel at Grosse Ile, MI by adding permanent winter hours to the current regulation for the waterway. A review of the current regulation was requested by the Grosse Ile Bridge Company, the owner of the Grosse Ile Toll Bridge (Bridge Road).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type [USCG-2016-0988]. In the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this

rule, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NEPA	National Environmental Policy Act of 1969
NPRM	Notice of proposed rulemaking
RFA	Regulatory Flexibility Act of 1980
SNPRM	Supplemental notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On December 16, 2016, we published a notice of proposed rulemaking (NPRM) entitled, Drawbridge Operation Regulation; Detroit River (Trenton Channel), Grosse Ile, MI, in the Federal Register (81 FR 91086). We did not receive any comments on this proposed rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority of 33 U.S.C. 499. The Grosse Ile Toll Bridge (Bridge Road) at mile 8.8, over Trenton Channel at Grosse Ile, MI is a center swing highway bridge that provides a vertical clearance of 10 feet and a horizontal clearance of 126 feet. The bridge provides a crossing between the mainland and Grosse Ile, an island in the Detroit River. The current regulation

for Trenton Channel drawbridges (33 CFR 117.631) includes the operating schedules for the Grosse Ile Toll Bridge (Bridge Road) at mile 8.8 and the Wayne County Highway Bridge (Grosse Ile Parkway) Bridge at mile 5.6, both at Grosse Ile, MI. Only the Wayne County Highway Bridge currently has a permanent winter operating schedule that requires 12-hours advance notice from vessels to obtain a bridge opening from December 15 through March 15 each year. A review of the current operating schedule and regulation was requested by the Grosse Ile Bridge Company, owner of the Grosse Ile Toll Bridge (Bridge Road), to allow a permanent winter operating schedule that matches the Wayne County Highway Bridge.

Over the past two winter seasons, the commercial vessel traffic has been reduced significantly and waterway use through Grosse Ile Toll Bridge is equivalent to the volume and type of traffic that passes through the Wayne County Highway Bridge that has had permanent winter hours for approximately 10 years. Mariners will still be able to request bridge openings with 12-hours advance notice during times of light traffic volume on the river due to ice formation that typically prevents most vessel navigation in the channel from December 15 through March 15 each year. Additionally, Commander, Ninth Coast Guard District, has granted annual authorization to the owner/operator of the Grosse Ile Toll Bridge to assume the same schedule during the past 10 years

under authority granted in 33 CFR 117.35.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a 30 day comment period in the Federal Register and solicited comments through the Ninth Coast Guard Local Notice to Mariners for the same 30 days and we did not receive any comments.

The Coast Guard is modifying the operating schedule of the Grosse Ile Toll Bridge (Bridge Road) at mile 8.8, over Trenton Channel at Grosse Ile, MI by adding permanent winter hours and 12-hours advance notice requirement to the current regulation for the drawbridge. This rule will make the current regulation easier to understand by aligning the winter operating schedules and requirements for both drawbridges over the waterway from December 15 through March 15 each year. At all times both drawbridges over Trenton Channel will be required to open as soon as possible for public vessels of the United States, State or local government vessels used for public safety, and vessels in distress.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice during the winter when ice typically prevents vessels from transiting the waterway and vessel traffic is at its lowest. Changing the current regulation will align drawbridge operating schedules throughout the waterway harmonizing the regulation and making it easier to understand for the mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 did not receive any comments from the Small Business Administration on this rule. 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. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this final rule would not have a significant economic impact on any vessel owner or operator because the bridge will open with advance notice.

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 rule. 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 person listed in the FOR FURTHER INFORMATION CONTACT, above. 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). 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.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. 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 (adjusted for inflation) 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and 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 made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32) (e), of the Instruction.

Under figure 2-1, paragraph (32) (e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed 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; Department of Homeland Security Delegation No. 0170.1.

2. In §117.631, revise paragraph (a) to read as follows:
§ 117.631 Detroit River (Trenton Channel).

(a) The draw of the Grosse Ile Toll Bridge (Bridge Road), mile 8.8, at Grosse Ile, shall operate as follows:

(1) From March 16 through December 14—

(i) Between the hours of 7 a.m. and 11 p.m., seven days a week and holidays, the draw need open only from three minutes before to three minutes after the hour and half-hour for

pleasure craft; for commercial vessels, during this period of time, the draw shall open on signal as soon as possible.

(ii) Between the hours of 11 p.m. and 7 a.m., the draw shall open on signal for pleasure craft and commercial vessels.

(2) From December 15 through March 15, no bridge tenders are required to be on duty at the bridge and the bridge shall open on signal if at least a twelve-hour advance notice is given.

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Dated: March 10, 2017

J. E. Ryan
Rear Admiral, U.S. Coast Guard,
Commander, Ninth Coast Guard District