



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2018-0955]

RIN 1625-AA09

Drawbridge Operation Regulations; Belle River, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the State Route 70 (SR 70), pontoon bridge across the Belle River mile 23.8, near Pierre Part, Assumption Parish, Louisiana. The bridge owner, the Louisiana Department of Transportation and Development (LA DOTD) provided the Coast Guard with information that demonstrated that significant vehicle queues were created during daylight hours in the months June, July and August and that these queues could be significantly decreased by changing the drawbridge operating schedule to open the bridge during the day on the hour instead of on signal as currently prescribed by regulations. This proposed action is intended to enhance vehicle safety and allow the bridge owner to effectively manage bridge operations during federal holidays.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2018-0955 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or e-mail Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671-2128, email Douglas.A.Blakemore@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive Order
FR	<i>Federal Register</i>
LA DOTD	Louisiana Department of Transportation and Development
OMB	Office of Management and Budget
Pub. L.	Public Law
NPRM	Notice of proposed rulemaking
§	Section
SR	State Road
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

LA DOTD has requested to change the operating requirements for the SR 70 pontoon bridge across the Belle River mile 23.8, near Pierre Part, Assumption Parish, LA. This bridge currently opens on signal, except that from 10 p.m. to 6 a.m. the draw shall open on signal if at least four hour notice is given according to 33 CFR part 117.424. LA DOTD requested this change because vehicle traffic has become heavily congested during June, July, and August. This waterway is heavily used by recreational

vessels during the summer months. This bridge has a vertical clearance of zero feet in the closed to vessel traffic position and unlimited vertical clearance in the open to vessel traffic position.

The Coast Guard allowed LA DOTD to temporarily change the bridge operating schedule to collect additional vehicle traffic data to measure the impact of bridge closures on traffic congestion. From 6 a.m. on June 1, 2019 through 6 p.m. on August 31, 2019 the draw was allowed to open on signal on the hour from 6 a.m. to 10 p.m., and from 10 p.m. to 6 a.m. the draw opened on signal if at least four hour notice is given. The bridge opened on signal for emergencies.

The Coast Guard published a Notice of Temporary Deviation from the regulations and a request for comments concerning these changes on April 16, 2019 Federal Register Number 2019-07515. The comment period closed on September 23, 2019. Four comments were received. All commenters favored changing the regulation.

After this temporary deviation the bridge returned to its normal operating schedule. Over this 105 day period LA DOTD measured the vehicle and vessel queues created when the bridge opened on the hour. LA DOTDs analysis of this data demonstrated that the average number of vehicles that were held in queue because of the bridge opening for vessels was reduced from 105 vehicles to 25 vehicles on average. During this period there were no vessel queues created by this temporary operating schedule.

The Coast Guard is issuing this NPRM under the authority of 33 U.S.C. 499

III. Discussion of Proposed Rule

The Coast Guard's decision to promulgate a drawbridge regulation depends

primarily upon the effect of the proposed rule on navigation to assure that the rule provides for the reasonable needs of navigation after consideration of the rule on the impact to the public. The Coast Guard must ensure that bridges across navigable waters do not unreasonably obstruct waterway traffic and at the same time provide for the reasonable needs of land traffic. Drawbridge operations must balance the needs of vessel, vehicle, rail, pedestrian and recreational traffic in the overall public interest.

Opening the bridge to vessel traffic on the hour instead of on signal appears to reduce vehicle queues while not creating vessel queues. The reduction in vehicle queues enhances safety by preventing vehicles from backing up on SR 70.

Since vessel queues were not created during this test the Coast Guard has determined that this operating schedule continues to provide vessels with the reasonability to use the waterway.

Additionally the bridge is required to open for emergencies according to 33 CFR 117.31.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive orders and we discuss First Amendment rights of protestors.

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 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been

designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the ability that vessels can still open the draw and transit given advance notice. Additionally according to 33 CFR 117.31 (b) the drawtender shall take all reasonable measures to have the draw opened, regardless of the operating schedule of the draw, for passage of certain vessels during emergency situations. We believe this proposed change to the drawbridge operation regulations at 33 CFR 117.424 will meet the reasonable needs of navigation.

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 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.

The bridge will continue to open on signal on the hour during most daylight hours. 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 proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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 rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed 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 section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. 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).

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 proposed 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 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT.

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 proposed rule will not result in such expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to

the discovery of a significant environmental impact from this proposed 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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online

docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

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; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.424 to read as follows:

§ 117.424 Belle River

The draw of the SR70 bridge, mile 23.8 near Belle River, shall open on signal; except that, from 10 p.m. to 6 a.m., the draw shall open on signal if at least four hours notice is given, and from June 1 through August 31 the draw shall open on signal on the hour from 6 a.m. to 10 p.m. The bridge shall open anytime at the direction of the District Commander.

Dated: May 4, 2020.

John P. Nadeau,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District.

[FR Doc. 2020-09855 Filed: 5/12/2020 8:45 am; Publication Date: 5/13/2020]