

Dated: July 17, 1995.

J.L. Linnon,

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

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33 CFR Part 117

[CGD05 94-093]

Drawbridge Operation Regulations; Mullica River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Burlington County, the Coast Guard is changing the regulations governing the Lower Bank bridge over the Mullica River at mile 15.0 between Atlantic and Burlington Counties, New Jersey. This change will extend the period during the winter months to include April when a four-hour advance notice for all bridge openings is required. This change is being made because there have been few requests for bridge openings during this time period.

EFFECTIVE DATE: November 2, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. G. Kassof, Bridge Administrator—NY, Fifth Coast Guard District (212) 668-7069.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. J. Arca, Fifth Coast Guard District, Bridge Branch-NY, Project Manager, and CAPT R. A. Knee, Fifth Coast Guard District Legal Office, Project Counsel.

Regulatory History

On February 13, 1995, the Coast Guard published a Notice of Proposed Rulemaking entitled "Drawbridge Operation Regulations, Mullica River, New Jersey" in the Federal Register (60 FR 8209). The comment period ended May 15, 1995. The Coast Guard received one comment on the notice of proposed rulemaking supporting the Coast Guard's proposed change to the regulations. A public hearing was not requested, and one was not held.

Background and Purpose

The Lower Bank highway bascule bridge over the Mullica River in Lower Bank, New Jersey, was replaced in 1993. The present bridge has a vertical clearance of 13 feet above mean high water (MHW) in the closed position which is 4 feet higher than the previous bridge. During the period from

December 1993 through April 1994, a period of 151 days, the bridge opened on request on only 34 days. The current operating regulations implemented in January 1988 require the Lower Bank bridge to open on signal, except from April 1 through November 30 from 11 p.m. to 7 a.m., and from December 1 through March 31 from 4:30 p.m. to 8 a.m., a 4-hour advance notice is required for a bridge opening. This change to the regulations will include April in the winter seasonal restrictions and increase the 4-hour advance notice requirement to apply to all requests for bridge openings from December through April. This change will provide the bridge owner with relief from constantly having a person available to open the bridge at times when openings are not needed.

Regulatory Evaluation

This rule 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 of this rule 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 not prevent mariners from passing through the Lower Bank Bridge, but will require mariners to provide a 4-hour advance notice of their arrival from May 1 through November 30 between 11 p.m. and 7 a.m., and from December 1 to April 30 at all times. At all other times, the bridge will open on signal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, 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.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and it has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.e. (32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard is amending part 117 of Title 33, Code of Federal Regulations to read 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; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. In section 117.731a paragraph (a) is revised to read as follows:

§ 117.731a Mullica River.

* * * * *

(a) The draw of the Lower Bank bridge, mile 15.0, need not open during the following periods unless at least four hours notice is given:

(1) From May 1 through November 30, from 11 p.m. to 7 a.m.

(2) From December 1 through April 30, at all times.

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Dated: September 14, 1995.

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Fifth Coast Guard District.*

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