

necessary for the continued operation of the bridge.

This deviation allows the draw of Kansas City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, to remain closed to navigation from noon on August 19, 2001 until noon on August 21, 2001.

Dated: July 26, 2001.

Roy J. Casto,
RADM, USCG, Commander, 8th CG District.
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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-01-001]

RIN 2115-AE47

Drawbridge Operation Regulation; Beaufort Channel, Beaufort, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Graydon Paul Drawbridge on US 70 across Beaufort Channel, also known as Gallant's Channel mile 0.1, located in Beaufort, North Carolina, at the request of the North Carolina Department of Transportation.

The final rule reduces the number of bridge openings during times of peak highway traffic. This final rule is intended to reduce motor vehicular delays and congestion related to commuter traffic going to and from work in the mornings and evenings, while still providing for the reasonable needs of navigation.

DATES: This final rule is effective on September 4, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD05-01-001, and are available for inspection or copying at the office of the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222.

FOR FURTHER INFORMATION CONTACT: Ann Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 13, 2001, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Beaufort Channel, Beaufort, NC" in the **Federal Register** (66 FR 19105). The Coast Guard received 5 letters commenting on the proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The Graydon Paul Drawbridge across Beaufort Channel, located in Beaufort, North Carolina, is owned and operated by the North Carolina Department of Transportation (NCDOT). The current regulation at 33 CFR 117.822 requires the bridge to open on signal, except that from 6 a.m. to 10 p.m., the draw opens on signal for all vessels waiting to pass every hour on the hour, twenty minutes past the hour and forty minutes past the hour; except that on weekdays the bridge need not open at 7:40 a.m., 8:40 a.m., 4:40 p.m. and 5:40 p.m.

NCDOT requested that openings of the Graydon Paul Drawbridge be further restricted by limiting drawbridge openings to on the hour and half hour seven days a week and rush hour restrictions from 6:30 a.m. to 8 a.m. and 4:30 p.m. to 6 p.m. during weekday morning and evening rush hours. This request to change the current regulation is based on heavy vehicular commuter traffic traveling to and from the Town of Beaufort during peak rush hour periods. The Graydon Paul Drawbridge is located on US Highway 70, which is the only corridor entering and exiting the town of Beaufort from Morehead City, North Carolina. Drawbridge openings create long traffic backups often extending for 6 to 7 miles. The heavy congestion often results in vehicular accidents. NCDOT contends that openings on the hour and half hour and extending rush hour restrictions will allow the bridge to clear the traffic before another opening occurred. Vehicular traffic congestion on US Highway 70 will be reduced and highway safety will be increased without placing undue hardship on vessel traffic.

NCDOT provided the Coast Guard with statistical data which shows that 12-13000 vehicles cross the drawbridge each day. When drawbridge openings occur every twenty minutes, traffic backups extend for several miles and cannot clear before the next opening. One mile South of the Graydon Paul Drawbridge on the same route is the Morehead City US 70 Bridge, which is a fixed 65 ft vertical clearance bridge on

the Atlantic Intracoastal Waterway (AICWW). It is an alternate route for boaters to go around through the AICWW by Morehead City back to Beaufort. Motorist do not have an alternate route on US 70 back and forth to and from Beaufort to Morehead City. In reviewing the recent draw logs and traffic counts, the Coast Guard has determined that the current regulations do not allow traffic to clear especially during rush hour periods and there was minimal vessel traffic at these times, therefore, a reduction in the number of openings will not substantially impact navigational traffic, but will provide a positive offsetting benefit to vehicular traffic.

The Coast Guard is amending § 117.822 by changing drawbridge openings from 6 a.m. to 10 p.m. to opening on the hour and half hour and eliminating openings from 6:30 a.m. to 8 a.m. and 4:30 p.m. to 6 p.m. on weekdays only, year round. All other provisions of the existing regulation will remain the same.

Discussion of Comments and Changes

The Coast Guard received 5 letters on the NPRM in support of the proposed changes to the regulation. The comments applauded the change and went further in asking that the bridge be welded shut. Since all of the comments favorably addressed the proposed change for which comments were being solicited, and the Coast Guard has determined permanently closing the bridge to all vessel traffic would interfere with navigation, the final rule is being implemented without change.

Regulatory Evaluation

This final 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 Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Coast Guard reached this conclusion based on the fact that the final rule will not prevent mariners from transiting the bridge, but merely require them to plan their transits in accordance with the scheduled bridge openings.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard has considered whether this final rule will 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 final rule will not have a significant economic impact on a substantial number of small entities. This is based on the fact that we contacted the local commercial facilities affected by this change to the regulations and received no adverse comments. The proposed regulation will still provide for the reasonable needs of navigation while improving highway conditions by restricting the vessel openings of the bridge from every twenty minutes to on the hour and half hour.

Collection of Information

This final rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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).

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

Taking of Private Property

This rule will not effect the 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmentally significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2–1, paragraph (32)(e) of COMDTINST M16475.1C, this final rule is categorically excluded from further environmental documentation based on the fact that it is a promulgation of the operating regulations for a drawbridge. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

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; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.822 is revised to read as follows:

§ 117.822 Beaufort Channel, NC.

The draw of the US 70 bridge, mile 0.1, at Beaufort, shall open as follows:

(a) From 6 a.m. to 10 p.m., the draw need only open every hour on the hour and on the half hour; except that Monday through Friday the bridge need not open between the hours of 6:30 a.m. to 8 a.m. and 4:30 p.m. to 6 p.m.

(b) From 10 p.m. to 6 a.m., the bridge shall open on signal.

Dated: July 24, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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