

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

[CGD08-04-042]

RIN 1625-AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Cypremort, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the State Route 319 (Louisiana) bridge across the Gulf Intracoastal Waterway, mile 134.0 west of Harvey Lock, near Cypremort, Louisiana. A new high-level, double-leaf bascule bridge that will require limited openings has replaced the low-level swing bridge across the waterway. The regulation change removes the regulation governing the to-be-removed bridge and replaces it with a regulation for the operation of the new bascule bridge.

DATES: This rule is effective April 11, 2005.

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 (CGD08-04-042) and are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130-3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, at (504) 589-2965.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On November 17, 2004, we published a notice of proposed rulemaking (NPRM) entitled, "Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Cypremort, LA," in the *Federal Register* (69 FR 67294). We received two letters commenting on the proposed rule. No public meeting was requested, and none was held.

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 Port of West St. Mary, proposes to establish a

schedule of operation for the new SR 319 movable bridge and eliminate the schedule of operation of the old SR 319 bridge. Currently, the bridge opens on signal; except that from 15 August to 5 June, the draw need not be opened from 6:55 to 7:10 a.m. and from 3:50 to 4:10 p.m. Monday through Friday except holidays.

The new bridge will open for traffic on April 10, 2005. When traffic is relocated to the new bridge, the old bridge will be maintained in the open to navigation position until it is removed. Removal of the old bridge should be completed within 90 days after the new bridge has been opened to traffic. The existing regulation for the old bridge is no longer required.

The new bridge provides mariners with 73 feet of vertical clearance above mean high water in the closed to navigation position. The new bridge will only be required to open for vessels with vertical clearances of greater than 73 feet. Gulf Intracoastal Waterway bridges to the east and to the west of this bridge are fixed bridges providing only 73 feet of vertical clearance. Only vessels wishing to transit to the Port of West St. Mary will require openings as this facility is currently the only facility or waterway between the SR 319 bridge at mm 134.0 and the Bayou Sale bridge at mm 113.0.

In an effort to assess and accurately determine the opening requirements of the new bridge, LDOTD supplied opening data for the present bridge and identified the number of openings that would have been required if the new bridge with 73 feet of vertical clearance were operating. In 2003, the existing bridge opened for the passage of vessels approximately 12,800 times. During that time period, the new bridge would have been required to open for marine traffic three times. Through mid-October of 2004, the existing bridge opened for the passage of vessels approximately 11,000 times. In 2004, during the final phases of construction of the new bridge (with the bascule leaves for the new bridge in place), vessels transiting the waterway only required 5 openings.

Based upon the existing statistics for bridge openings and the limited number of openings that will be required for the passage of traffic for the new bridge, LDOTD has requested that the new bridge be required to open on signal if at least 24-hours advanced notice is given. The Port of West St. Mary is the only facility known to be affected by the new advanced notice requirement. They have stated by letter that this requirement is reasonable and have no objections.

Navigation at the site of the bridge consists primarily of tugboats with barges. Alternate routes to the Port of West St. Mary are not available to marine traffic requiring vertical clearances of greater than 73 feet.

Discussion of Comments and Changes

Two letters were received with regards to the NPRM. The U.S. Fish and Wildlife Service stated that the change would have no effect on resources. The National Marine Fisheries Service has no objections to the proposed change. Based upon this comments, no changes were made to the proposed regulation.

Regulatory Evaluation

This 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 (DHS).

This rule allows vessels with vertical clearance requirements of greater than 73 feet ample opportunity to transit this waterway without delay if they provide 24-hours advanced notification of their vessel movement. The drawbridge will not restrict all other vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 rule will not have a significant economic impact on a substantial number of small entities.

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 rule so that they can 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).

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).

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 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 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 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 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 cause 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, 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 rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the

Instruction, from further environmental documentation. This final rule involves removal of the drawbridge operation regulation for a drawbridge that has been removed from service and placing a drawbridge operation regulation on a new high-level bascule drawbridge. It will not have any impact on the environment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out in the preamble, the Coast Guard is amending part 117 of title 33, Code of Federal Regulations 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. In § 117.451, paragraph (d) is revised to read as follows:

§ 117.451 Gulf Intracoastal Waterway.

* * * * *

(d) The draw of the SR 319 (Louisa) bridge across the Gulf Intracoastal Waterway, mile 134.0 west of Harvey Lock, near Cypremont, shall open on signal if at least 24 hours notice is given.

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Dated: February 10, 2005.

R.F. Duncan,

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

[FR Doc. 05-3381 Filed 2-18-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 309-0474; FRL-7872-4]

Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Great Basin Unified Air Pollution Control District (GBUAPCD) and Ventura County Air Pollution