

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08-06-028]

RIN 1625-AA09

Drawbridge Operation Regulation; Bayou Lafourche, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing six bridges across Bayou Lafourche, south of the Gulf Intracoastal Waterway, in Lafourche Parish, Louisiana. The Lafourche Parish Council has requested that the bridges remain closed to navigation at various times on weekdays during the school year. These closures will facilitate the safe, efficient movement of staff, students and other residents within the parish.

DATES: Comments and related material must reach the Coast Guard on or before November 20, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpb), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130-3310. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone 504-671-2128.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08-06-028], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or

envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The U.S. Coast Guard, at the request of the Lafourche Parish Council, proposes to modify the existing operating schedules of six bridges across Bayou Lafourche south of the Gulf Intracoastal Waterway in Lafourche Parish, Louisiana. The six bridges include: Golden Meadow Vertical Lift Bridge, mile 23.9; the Galliano Pontoon Bridge, mile 27.8; the South Lafourche (Tarpon) Vertical Lift Bridge, mile 30.6; the Cote Blanche Pontoon Bridge, mile 33.9; the Cutoff Vertical Lift Bridge, mile 36.3; and the Larose Pontoon Bridge, mile 39.1. The modification of the existing regulations will allow these bridges to remain closed to navigation from 7 a.m. to 8:30 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m., Monday through Friday from August 15 through May 31. At all other times, the bridges would open on signal for the passage of vessels.

Presently, the draws of these bridges shall open on signal; except that, from August 15 through May 31, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 7 a.m. to 8 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m.

The existing regulations for the bridges went into effect on January 27, 2006. The original request by the petitioner was that the bridges be closed to navigation from 7 a.m. to 8:30 a.m.; however, due to a clerical error, the rule was codified with the morning hours of 7 a.m. to 8 a.m. This request will correct the discrepancy.

Traffic counts and vessel openings vary among the six bridges. The Louisiana Department of Transportation and Development provided information on vessel openings for the Larose Pontoon Bridge, mile 39.1; the Galliano/South Lafourche (Tarpon) Vertical Lift Bridge, mile 30.6; and the Golden Meadow Vertical Lift Bridge, mile 23.9 since the regulation became effective.

The Lafourche Parish Council also provided information on vessel openings and traffic counts for the Cutoff Vertical Lift Bridge, mile 36.3; the Cote Blanche Pontoon Bridge, mile 33.9; and the Galliano Pontoon Bridge, mile 27.8.

The modification of the additional 30-minute closure request affects each bridge differently. The additional time will require vessels already delayed by the morning closures to be delayed an additional 30 minutes. The number of vessels delayed per bridge varies but on average there are approximately 12 to 14 vessels delayed per month on approximately 8 days per bridge.

Discussion of Proposed Rule

The proposed rule would modify the existing regulations in 33 CFR 117.465 to facilitate the movement of high volumes of vehicular traffic across the bridge during periods of increased transits during the school year. These closures would allow for vehicles and school busses to transit across the bridges unimpeded both before and after school hours. The change would allow these six bridges on Bayou Lafourche south of the Gulf Intracoastal Waterway, mile 35.6 west of Harvey Lock, in Larose, to remain closed to navigation from 7 a.m. to 8:30 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m. Monday through Friday from August 15 to May 31. At all other times, the bridge will open on signal for the passage of vessels. The proposed regulation does not affect the SR 1 (Leeville) Vertical Lift Bridge, mile 13.3. This bridge is a mid-level vertical lift bridge and is scheduled to be replaced by a high-level fixed bridge in the near future.

Regulatory Evaluation

This proposed 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. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This proposed rule would allow the six bridges to remain closed to navigation an additional 30 minutes in the morning to facilitate the movement of school children within Lafourche Parish. According to the information provided by the applicant, the public at

large is better served by the closure times.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities: the owners and operators of vessels needing to transit the bridges during the requested closure periods.

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

Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 Eighth Coast Guard District Bridge Administration Branch at the address above. 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.

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).

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

Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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.

Energy Effects

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under 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 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Determination Check List” and a “Categorical Exclusion Determination” are not required for this rule. However, comments on this section still be considered before the final rule.

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; 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. Section 117.465(a) is revised to read as follows:

§ 117.465 Lafourche Bayou.

(a) The draws of the following bridges shall open on signal; except that, from August 15 through May 31, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 7 a.m. to 8:30 a.m.; from 2 p.m. to 4 p.m.; and from 4:30 p.m. to 5:30 p.m.:

(1) SR 308 (Golden Meadow) Bridge, mile 23.9, at Golden Meadow

(2) Galliano Pontoon Bridge, mile 27.8, at Galliano

(3) SR 308 (South Lafourche (Tarpon)) Bridge, mile 30.6, at Galliano

(4) Cote Blanche Pontoon Bridge, mile 33.9, at Cutoff

(5) Cutoff Vertical Lift Bridge, mile 36.3, at Cutoff

(6) SR 310 (Larose Pontoon) Bridge, mile 39.1, at Larose

* * * * *

Dated: September 10, 2006.

Joel R. Whitehead,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08-06-034]

RIN 1625-AA09

Drawbridge Operation Regulation; Bayou Lafourche, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the draw of the Valentine Pontoon Bridge across Bayou Lafourche, mile 44.7, in Lafourche Parish, Louisiana. The regulation will allow for the bridge to be unmanned and remain closed during hours of infrequent traffic with an advance notification requirement to open the bridge.

DATES: Comments and related material must reach the Coast Guard on or before November 20, 2006.

ADDRESSES: You may mail comments and related material to Commander

(dpb), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130-3310. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone 504-671-2128.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08-06-034], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The U.S. Coast Guard, at the request of the Lafourche Parish Council, proposes to modify the existing operating schedules of the Valentine Pontoon Bridge across Bayou Lafourche, mile 44.7, in Lafourche Parish, Louisiana. The majority of the bridge's openings occur between the hours of 6 a.m. and 6 p.m. The bridge owner proposes to continue to open the bridge on signal during these hours and to open the bridge on signal if at least four hours advance notification is given between the hours of 6 p.m. and 6 a.m.

Presently, the draw of the bridge opens on signal for the passage of traffic.

Several large shipyards are located on Bayou Lafourche upstream of the bridge. The Lafourche Parish Council has contacted these facilities and has received letters of no objection to the proposed changes. A recent review of the bridge tender logs indicates that approximately 700 vessels transited through the bridge over the past year. Approximately 80% of the vessels transiting through the bridge site did so between the hours of 6 a.m. and 6 p.m. Additionally, it would appear that the majority of the night time openings for the bridge are for trawl vessels and they appear to increase during the months of May and August. Many of the trawl vessels appear to transit in clusters and pass through the bridge site on the same bridge opening. Presently, it is unclear as to whether or not a four-hour advance notification will place an undue burden on the vessel owners; however, the regulation will be written so that the bridge will be required to open on signal during the advance notification period if a temporary surge in water traffic occurs.

Traffic counts were not included as part of the submittal from the bridge owner as the request is to reduce the requirement of having a bridge tender at the bridge 24 hours a day due to the limited number of vessel openings that occur during the hours of 6 p.m. to 6 a.m.

Discussion of Proposed Rule

The proposed rule would modify the existing regulations in 33 CFR 117.465. The modification to the regulations will require the bridge owner to open the bridge on signal from 6 a.m. until 6 p.m. daily for the passage of vessels. At all other times, the bridge will open for signal for the passage of vessels if at least four hours advance notification is given. This modification will allow the bridge owner to reduce their requirements to have a bridge tender at the bridge site at all times. The SR 3220 bridge, mile 49.2, at Lockport, is required to open on signal for the passage of vessels; except that from 6 p.m. to 10 a.m., the bridge draw shall open on signal if at least four hours advance notification is given. As the next bridge upstream from the Valentine Bridge already has a more restrictive regulation established, the new regulation will only directly affect those individuals whose vessels or facilities are located within this five mile stretch of the waterway. The two largest commercial facilities have already submitted letters of no objection to the proposed changes.