

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

[Docket No. USCG-2012-0854]

**Drawbridge Operation Regulation; Shark River, Avon, NJ****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the draws of three bridges which operate as one unit, specifically, the S71 bridge, mile 0.8, the railroad bridge, mile 0.9, and the S35 bridge, mile 0.9, all of which are across the Shark River (South Channel), at Avon Township, NJ. This deviation is necessary to facilitate stringer replacement on the Shark River railroad bridge. This temporary deviation will allow the drawbridges, which operate in unison, to remain in the closed-to-navigation position on specific dates and times.

**DATES:** This deviation is effective from 10 p.m. September 21, 2012 until 6:00 a.m. on September 24, 2012 and from 10 p.m. September 28, 2012 until 6:00 a.m. October 1, 2012.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket USCG-2012-0854 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0854 in the "Keywords" box, and then clicking "Search". This material is also available for inspection or copying the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Jim Rousseau, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398-6557, email [James.L.Rousseau2@uscg.mil](mailto:James.L.Rousseau2@uscg.mil). If you have questions on reviewing the docket, call Renee V. Wright, Program Manager, Docket Operations, 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The New Jersey Transit, owner and operator of the Shark River Railroad Bridge across the Shark River (South Channel), mile 0.9, at Avon, NJ, has requested a temporary deviation from the current operating regulations set out in 33 CFR

117.751, to accommodate stringer replacement for the Shark River Bridge.

The Shark River Railroad Bridge across the Shark River, mile 0.9, is a bascule lift Bridge, in Avon Township, NJ, and has a vertical clearance in the closed position of 10 feet, above mean high water.

Because the draw of the Shark River bridge operates in unison with the S71 bridge, mile 0.8, and the S35 bridge, mile 0.9, all across Shark River at Avon Township, NJ, the draws of these two bridges will also be restricted under this deviation. These bridges are also bascule lift bridges and have a vertical clearance of 13 and 10 feet respectively.

The current schedule the Shark River Railroad Bascule Bridge operating regulations are set out in 33 CFR 117.751. Under normal operating conditions, the draws of S71 bridge, mile 0.8, the railroad bridge, mile 0.9, and the S35 bridge, mile 0.9, all at Avon, operate as one unit.

Under this temporary deviation, the above mentioned drawbridges will be allowed to remain in the closed-to-navigation position for the half hour opening requests and only open on the hour from 11:00 p.m. Friday September 21, 2012 to 6:00 a.m. on Monday September 24, 2012 and Friday September 28, 2012 to 6:00 a.m. on Monday October 1, 2012 to accommodate stringer replacement.

Vessels able to pass under the spans when closed may transit under the drawbridges while they are in the closed position. Mariners are advised to proceed with caution. The Coast Guard will inform mariners and other users of the waterway through local broadcast Notices to Mariners. These broadcasts will include information of the limited operating schedule for the drawbridge so that vessels can rearrange their transit in order to minimize any impacts caused by the temporary deviation. There are no alternate routes for vessels and the bridge will be able to open in the event of an emergency.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 6, 2012.

**G.D. Case,**

*Captain, U.S. Coast Guard, Fifth Coast Guard District.*

[FR Doc. 2012-22774 Filed 9-14-12; 8:45 am]

**BILLING CODE 9110-04-P**

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

[Docket No. USCG-2012-0181]

RIN 1625-AA09

**Drawbridge Operation Regulation; Alabama River, AL****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulation governing the Meridian and Bigbee Railroad (MNBR) swing span bridge across the Alabama River at Selma, Dallas County, Alabama. Due to the infrequent requirement to open the bridge for the passage of vessels, the owner has requested a change allowing the bridge to open only on signal if at least 24-hours advanced notification is given.

**DATES:** This rule is effective October 17, 2012.

**ADDRESSES:** Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0181 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0181 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this final rule, call or email David Frank, Bridge Administration Branch; telephone 504-671-2128, email

[David.M.Frank@uscg.mil](mailto:David.M.Frank@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:****Table of Acronyms**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of Proposed Rulemaking  
 § Section Symbol  
 U.S.C. United States Code

**A. Regulatory History and Information**

On May 21, 2012, we published a notice of proposed rulemaking (NPRM)

entitled “Drawbridge Operation Regulation; Alabama River, AL” in the **Federal Register** (77 FR 29924). We received no comments on the proposed rule. No public meeting was requested, and none was held.

## B. Basis and Purpose

The MNBR swing span bridge crosses the Alabama River at mile 205.9, at Selma, Dallas County, Alabama. The bridge is currently maintained in the closed-to-navigation position, opening only for the passage of marine traffic. The bridge has a vertical clearance of 26 feet above ordinary high water in the closed-to-navigation position and unlimited in the open-to-navigation position. No alternate routes are available.

Due to the limited number of openings of the drawbridge, an average of one opening per year, the bridge owner requested a change to the operating schedule that would allow the bridge to open on signal if at least 24-hour advanced notification is given. Presently, the bridge opens on signal for the passage of vessels; however, three other bridges on the waterway open on signal if at least 24-hour advanced notification is given. The existing bridges are located at mile 105.3, at Coy, Alabama, and mile 277.8 and mile 293.3, both in Montgomery, Alabama.

## C. Discussion of Comments, Changes, and the Final Rule

As part of the NPRM process, a 60-day comment period was provided to allow for comments regarding the proposed change. No comments were received and no changes were made to the rule as proposed.

## D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Very few vessels will be impacted. Those few vessels should be able to provide adequate advanced notification

of their arrivals as is already done on this waterway for three other movable bridges located upstream and downstream of this bridge.

### 2. 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 received no comments from the Small Business Administration on this rule. 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.

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit the Alabama River above mile 205.9. This action will not have a significant economic impact on a substantial number of small entities because these few vessels should be able to provide adequate advanced notification of their arrivals as is already done on this waterway for three other movable bridges located upstream and downstream of this bridge.

### 3. 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 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.

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). 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.

### 4. 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).

### 5. Federalism

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 rule under that Order and have determined that it does not have implications for federalism.

### 6. 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.

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

### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 9. 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.

### 10. 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 environmental risk to health or risk to safety that might disproportionately affect children.

### 11. 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.

### 12. 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.

### 13. Technical Standards

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

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

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

■ 2. In § 117.101, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), and a new paragraph (b) is added to read as follows:

#### § 117.101 Alabama River.

\* \* \* \* \*

(b) The draw of the Meridian and Bigbee Railroad (MNBR) Bridge, mile 205.9, at Selma, shall open on signal if at least 24 hours notice is given. An opening can be arranged by contacting the Meridian and Bigbee Railroad Roadmaster at 601-480-5071.

\* \* \* \* \*

Dated: August 25, 2012.

**Roy A. Nash,**  
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

[Docket No. USCG-2012-0179]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Tombigbee River, AL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is adding a regulation to govern the Meridian and Bigbee Railroad (MNBR) vertical lift span bridge across the Tombigbee River at Naheola, Marengo and Choctaw Counties, Alabama. The bridge currently remains in the open-to-navigation position and only lowers for the passage of trains. This rule codifies the current schedule as a special operating regulation.

**DATES:** This rule is effective October 17, 2012.

**ADDRESSES:** Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0179 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0179 in the “Keyword”

box, and then clicking “Search.” This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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§ Section Symbol  
U.S.C. United States Code

#### A. Regulatory History and Information

On May 1, 2012, we published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulation; Tombigbee River, AL” in the *Federal Register* (77 FR 25655). We received no comments on the proposed rule. No public meeting was requested, and none was held.

#### B. Basis and Purpose

The MNBR vertical lift span bridge crosses the Tombigbee River at mile 128.6 (Black Warrior Tombigbee Waterway mile 173.6), Naheola, Marengo and Choctaw Counties, Alabama. The bridge is currently maintained in the open-to-navigation position, closing only for the passage of rail traffic. The bridge has a vertical clearance of 12.2 feet above ordinary high water (OHW), elevation 64.5 feet, in the closed-to-navigation position and 55 feet above OHW in the open-to-navigation position. Many of the vessels using the waterway transit under a fixed span of the bridge at periods of lower water due to the difficulty of transiting the navigation span, which only has a horizontal clearance of 150 feet between piers.

Due to the limited number of trains using the rail line in this area, maintaining the bridge in the fully open-to-navigation position and only lowering the bridge for rail traffic is the preferred operating schedule. Because this operating schedule has been in place for over ten years, and is understood and accepted by local