

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117****[CGD08-01-007]****RIN 2115-AE47****Drawbridge Operation Regulation;
Ouachita River, LA****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a temporary change to the regulation governing the operation of the Kansas City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, at Monroe, Ouachita Parish, Louisiana. The temporary rule will allow for the passage of vessels from June 4, 2001, through November 15, 2001 only during the morning hours with proper advanced notification. This temporary rule is issued to facilitate the repairs to the turn span of the bridge. Presently, the draw opens on signal at all times.

DATES: Comments and related material must reach the Coast Guard on or before April 16, 2001.

ADDRESSES: You may mail comments to Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130-3396, or deliver them to room 1313 at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. 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 Branch, Eighth Coast Guard District between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

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 (CGD08-01-007), 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 confirmation of receipt of your comments, 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 temporary rule in view of comments received.

The comment period for this NPRM is only fifteen days, so that we can provide an opportunity for public comment and still promulgate our final rule at least 30 days before the operation schedule change becomes effective.

Public Meeting

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

Background and Purpose

The Kansas City Southern Railroad has submitted plans to repair the turn span of the swing span bridge across the Ouachita River, mile 167.1, at Monroe. To facilitate the continued movement of trains across the bridge during the repairs, the railroad plans to remove the swing span and temporarily replace it with a removable span bridge with 70 feet of horizontal clearance. The railroad has requested limited openings during the repair period of May 7, 2001 through November 30, 2001. Frequent need to remove and replace the span will severely limit the railroad's ability to complete the repairs in a timely manner.

Discussions were held between the railroad, its contractor, waterway users, and facility operators to determine the best method of allowing vessels to transit the waterway during the repair period. The discussions centered on the mariner's ability to transit the bridge site on any day if proper notification was given. The railroad only wanted to open the bridge on certain days during the morning hours. Mariners explained that their schedule was not such that they would need to go through the bridge on set days and that the proposed schedule by the railroad may require vessels to wait almost 48 hours for the passage. It was determined that due to the limited number of transits, openings would not be required daily but set days would not be acceptable.

Following the meetings, the group recommended to the Coast Guard that

- The draw need not open for the passage of vessels from 2 a.m. on June 4, 2001 through 2 a.m. on June 6, 2001, and from 2 a.m. on November 12, 2001 until 2 a.m. on November 14, 2001.
- At all other times between June 4, 2001 and November 15, 2001, the draw of the bridge need not open for the passage of vessels, except from 8 a.m. to 11 a.m. daily for those vessels that have provided at least 20-hours notification.

The two 48-hour closures will allow for the removal and replacement of the swing span and placement of the removable span sections of the bridge. Upon establishment of the removable span bridge, mariners will be able to transit the bridge site between the hours of 8 a.m. and 11 a.m. daily provided at least 20-hours notification is given.

Regulatory Evaluation

This proposed temporary 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. 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).

We expect the economic impact of this proposed temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This proposed temporary rule maintains the movement of vessels while allowing the bridge owner to repair his bridge as expeditiously as possible.

Small Entities

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

This proposed temporary rule would affect the following small entities: The owners or operators of vessels intending to transit the Ouachita River at mile 167.1.

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

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 proposed temporary 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 Bridge Administration Branch, Eighth Coast Guard District at the address above.

Collection of Information

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

Federalism

We have analyzed this proposed temporary rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed temporary rule would not impose an unfunded mandate.

Taking of Private Property

This proposed temporary rule would not effect 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 temporary 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 temporary 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed temporary rule and concluded that, under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed temporary rule is categorically excluded from further environmental documentation. This proposal will change an existing special drawbridge operating regulation promulgated by a Coast Guard Bridge Administration Program action. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 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; 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. From 2 a.m. on June 4, 2001 until 6 p.m. on November 15, 2001, in § 117.483, the existing text is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 117.483 Ouachita river.

* * * * *

(b) The draw of the Kansas City Southern Railroad swing span bridge, mile 167.1, at Monroe, shall operate as follows:

(1) The draw need not open for the passage of vessels from 2 a.m. on June 4, 2001, through 2 a.m. on June 6, 2001,

and from 2 a.m. on November 12, 2001, through 2 a.m. on November 14, 2001.

(2) At all other times between June 4, 2001, and November 15, 2001 inclusive, the draw need not open for the passage of vessels, except from 8 a.m. until 11 a.m. daily, the draw shall open for vessels that have provided at least 20-hours notification.

Dated: March 21, 2001.

Paul J. Pluta,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-01-007]

RIN 2115-AE47

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, Cape May Canal

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a change to the regulations governing the operation of the Cape May Canal Railroad Bridge at the New Jersey Intracoastal Waterway (ICW), mile 115.1, across Cape May Canal, in Cape May, New Jersey. This proposal would maintain the bridge in the open position, except that it would close for the crossing of trains and the maintenance of the bridge. The proposed change will provide for the reasonable needs of navigation.

DATES: Comments must reach the Coast Guard on or before May 29, 2001.

ADDRESSES: You may mail comments and related material to the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or they may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Commander (Aowb), Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and documents received from the public, as well as documents indicated in this preamble as being available in this docket, will become part of this docket and will be available for inspection and copying at the above address.

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