

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: October 3, 2001.

G.N. Naccara,

*Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.*

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-01-003]

RIN 2115-AE47

Drawbridge Operating Regulation; Terrebonne Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is changing the operating schedule for the Howard Avenue bridge across Terrebonne Bayou, mile 35.0, at Houma, Terrebonne Parish, LA. The rule establishes the same operating schedule for this bridge as the Daigleville Bridge, mile 35.5, to facilitate the flow of vehicular traffic during rush hours while still meeting the reasonable needs of navigation. The new schedule will provide a safe, continuous vessel passage through the draws. This action is expected to relieve the bridge owner from the requirement to separately man each bridge by using roving drawtenders to operate the bridges when necessary.

DATES: This rule is effective November 16, 2001.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will be available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130-3396, telephone number 504-589-2965.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard published a notice of proposed rulemaking on March 19, 2001 (66 FR 15373). The proposed rule would have permitted the draws of the S3087 bridge, the Howard Avenue bridge, and the Daigleville bridge to open on signal if at least four hours notice were given, except that, the draw need not open for the passage of vessels Monday through Friday, except Federal holidays, from 6 a.m. to 8 a.m. and 4 p.m. to 6 p.m.

Two letters were received in response to the public notice. The Louisiana Department of Agriculture offered no comments. Mr. Richard Block of the Gulf Coast Mariners Association stated that the changes requested would adversely impact commercial businesses and commercial vessel traffic in the area. Comments received prompted the Coast Guard to reevaluate the proposal. The response letters were forwarded to the Louisiana Department of Transportation and Development (LDOTD) for their reevaluation.

LDOTD responded to the Coast Guard with a new proposal. They determined that the special operating regulations for the S3087 bridge and the Daigleville bridge would remain unchanged and they would only request a change to the operation of the Howard Avenue Bridge. They requested that the Howard Avenue bridge be operated on the same schedule as the Daigleville bridge which is 0.5 miles upstream of the Howard Avenue bridge.

The Coast Guard published a supplemental notice of proposed rulemaking in the **Federal Register** on July 12, 2001 (66 FR 36525). The proposed rule would place this bridge on the same operating schedule as the Daigleville Bridge, mile 35.5, to facilitate the flow of vehicular traffic during rush hours while still meeting the reasonable needs of navigation.

Background and Purpose

The S3087 Bridge, mile 33.9, the newly constructed Howard Avenue Bridge, mile 35.0, and the Daigleville Bridge, mile 35.5 all lie within a 1.6 mile section on Terrebonne Bayou. These three bridges are currently on three different operating schedules, which requires the owner to man them at various times. Due to the close proximity of the bridges to one another and the low volume of waterway traffic, the Department of Transportation and Development (DOTD) for the State of Louisiana has requested that the Coast Guard revise the regulations. 33 CFR 117.505 governs the S3087 and Daigleville Bridges. DOTD wanted to include the Howard Avenue Bridge in a

new regulation placing all three bridges under the same operating schedule. Currently, the Howard Avenue Bridge opens on signal at any time for the passage of vessels. Due to a comment in response to the NPRM, DOTD revised their request to have the Howard Avenue bridge placed on the same schedule as the Daigleville bridge. The SR 3087 bridge will remain on its existing schedule.

Discussion of Comments and Changes

Two responses were received for the NPRM. One response was received from the Supplemental Notice of Proposed Rulemaking. The National Marine Fisheries Service offered no comments. No public hearing was requested, none was held and no changes have been incorporated into the Final Rule.

Regulatory Evaluation

This 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 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 rule allows commercial fishing vessels ample opportunity to transit this waterway before and after the peak vehicular traffic period that occurs between 7 a.m. and 8:30 a.m. and 4:30 p.m. and 6 p.m. according to the vehicle traffic surveys.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers 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 would not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under the 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121,

we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This 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 rule under Executive Order 13132 and have determined that this rule would not have implications for federalism under that Order. No comments were received with regards to federalism during the NPRM or SNPRM comment periods.

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 rule would not impose an unfunded mandate. No comments were received with regards to unfunded mandates during the NPRM or SNPRM comment periods.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. No comments were received with regards to the taking of private property during the NPRM or SNPRM comment periods.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No comments were received with regards to the taking of private property during the NPRM or SNPRM comment periods.

Protection of Children

We have analyzed this rule under E.O. 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.

Indian Tribal Governments

This 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 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. 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

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. Bridge Administration Program actions that can be categorically excluded include promulgation of operating regulations or procedures for drawbridges. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 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. In § 117.505, paragraph (d) is revised to read as follows:

§ 117.505 Terrebonne Bayou.

* * * * *

(d) The draws of the Howard Avenue bridge, mile 35.0, and the Daigleville bridge, mile 35.5, at Houma, shall open on signal; except that, the draws need not open for the passage of vessels Monday through Friday, except holidays from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m. From 10 p.m. to 6 a.m., the draws shall open on signal if at least four hours notice is given.

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Dated: October 5, 2001.

Roy J. Casto,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–180]

RIN 2115–AE47

Drawbridge Operation Regulations: Harlem River, Newtown Creek, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary final rule governing the operation of the Willis Avenue Bridge, mile 1.5, and the Madison Avenue Bridge, mile 2.3, both across the Harlem River, and the Pulaski Bridge, mile 0.6, across Newtown Creek in New York City, New York. This temporary final rule allows the bridge owner to close the above three bridges on November 4, 2001, as follows: Willis Avenue and Madison Avenue bridges from 10 a.m. to 5 p.m. and the Pulaski Bridge from 8:30 a.m. to 3 p.m. This action is necessary to facilitate public safety during the running of the New York City Marathon.

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

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Schmied, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: