



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0460]

RIN 1625-AA09

Drawbridge Operation Regulation; Shrewsbury River, Sea Bright, New Jersey

AGENCY: Coast Guard, DHS

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Monmouth County Highway Bridge (alternatively referred to as the “Sea Bright Bridge” or the “S-32 Bridge”) across the Shrewsbury River, mile 4.0 at Sea Bright, New Jersey. The bridge owner submitted a request to reduce scheduled openings of the span and include Fridays within the seasonal weekend operating schedule for the bridge. It is expected this change to the regulations will better serve the needs of the community while continuing to meet the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before [Insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2017-0460 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. James Moore, Project Officer, First Coast Guard District, telephone 212-514-4334, e-mail James.M.Moore2@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

The Monmouth County Highway Bridge, mile 4.0, across the Shrewsbury River at Sea Bright, New Jersey, offers mariners a vertical clearance of 15 feet at Mean High Water and 17 feet at Mean Low Water when the span is in the closed position. Vertical clearance is unlimited when the draw is open. Horizontal clearance is 75 feet. Waterway users include recreational and a limited number of commercial vessels including tug/barge combinations.

The existing drawbridge regulation, 33 CFR § 117.755, requires the draw of the Monmouth County Highway Bridge to open as follows:

The draw shall open on signal at all times; except that, from May 15 through September 30, on Saturday, Sunday and holidays, between 9 a.m. and 7 p.m., the draw need open only on the hour and half hour.

This regulation has been in effect since July 6, 2010. The owner of the bridge, the

Monmouth County Board of Chosen Freeholders, requested a change to the drawbridge operating regulations given the increased volume of vehicular traffic crossing the bridge associated with the summer months. This increased vehicular traffic coupled with bridge openings for vessels on the hour as well as the half-hour has resulted in lengthy traffic jams on either side of the bridge during peak travel hours. Traffic congestion will be relieved through reduction of required bridge openings for vessels.

Monmouth County also requested that from May 15 to September 30 the modified operating regulations presently encompassing Saturdays, Sundays and holidays be expanded to include Fridays as well. Given the volume of vehicular traffic crossing the bridge at the beginning of the weekend, starting the modified weekend operating schedule on Friday will allow for more efficient and economical operation of the bridge.

III. Discussion of Proposed Rule

Members of the public attending a meeting held in Rumson, New Jersey on April 5, 2016 indicated a desire to modify the operating regulations based on repeated experience with traffic jams on either side of the bridge associated with seasonal waterway traffic patterns. Analysis furnished by Monmouth County confirms that the seasonal nature of bridge openings negatively impacts the efficient flow of vehicular traffic. Moreover, the study indicates that reducing the number of scheduled openings for vessels will not significantly affect the movement of waterway traffic. It was also noted that vehicular traffic builds significantly on each successive Friday leading into the weekend over the course of the summer. Based on the analysis provided, the Coast Guard proposes to permanently change the drawbridge operating regulation 33 CFR § 117.755.

The proposed rule would allow the Monmouth County Highway Bridge to open as

follows: The draw shall open on signal at all times; except that, from May 15 through September 30, on Friday, Saturday, Sunday and holidays, between 9 a.m. and 7 p.m., the draw need only open on the hour.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The Coast Guard believes this rule is not a significant regulatory action. The bridge will open on the hour from 9 a.m. to 7 p.m. during Friday, Saturday, Sunday and Holidays throughout the summertime boating season, while still opening on signal during evening hours as well as through the autumn, winter and spring months. The minimum 15 foot vertical clearance available while the bridge is in the closed position is sufficient to allow a significant number of recreational vessels to safely and expeditiously pass through the draw without opening.

B. 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 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.

For the reasons stated in Sections III. and IV. A. above, this proposed rule will not pose a significant economic impact on any vessel owner or operator.

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.

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 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. 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.).

D. Federalism and Indian Tribal Government

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 proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, and Commandant Instruction M16475.1 (series), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination 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 proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. 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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086).

Documents mentioned in this notice and all public comments are in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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

2. Amend § 117.755 by revising paragraph (a) to read as follows:

§ 117.755 Shrewsbury River

* * * * *

(a) The draw shall open on signal at all times; except that, from May 15 through September 30, on Friday, Saturday, Sunday and holidays, between 9 a.m. and 7 p.m., the draw need open only on the hour.

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Dated: June 30, 2017.

S. D. Poulin,
Rear Admiral, U.S. Coast Guard,
Commander, First Coast Guard District.

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