

Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effect on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact LCDR John Fidaleo, G-OPN-2 at (202) 267-0346.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined this proposal does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under paragraph 2.B.2.e(23) and (34)(i) of Commandant Instruction M16475.1B, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Coast Guard proposes to amend 33 CFR part 66 as follows:

PART 66—[AMENDED]

1. The authority citation for part 66 continues to read as follows:

Authority: 14 U.S.C. 83, 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. In § 66.05-100, remove paragraph (a), and redesignate paragraphs (b) through (j) as paragraphs (a) through (i), and revise newly designated paragraph (i) to read as follows:

§ 66.05-100 Designation of navigable waters as State waters for private aids to navigation.

* * * * *

(i) *Wisconsin*. Navigable waters within the State not marked with Coast Guard aids to navigation as of May 1, 1996.

Dated: March 27, 1998.

Ernest R. Riutta,

Assistant Commandant for Operations.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-94-028]

RIN 2115-AE47

Drawbridge Operating Regulation; Kelso Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a change to the regulation governing the operation of the State Route 27 swing span drawbridge across Kelso Bayou, mile 0.7, at Hackberry, Cameron Parish, Louisiana. The change will require four hours advance notification at night from May 20 through December 22. The change will increase the advance notification from four hours to 24 hours from December 23 through May 19. This action would provide relief to the bridge owner and still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before June 15, 1998.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are 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 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. Commander (ob) maintains the public docket for this rulemaking.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this proposed rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD08 94-028) and the specific section of this document to which each comment applies, and give the reason for each

comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Eighth Coast Guard District at the address under ADDRESSES. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Regulatory History

On October 4, 1994, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (59 FR 50528). The NPRM proposed a change to the advance notification prior to opening the bridge. The proposed requirement was as follows:

a. From about May 25 (the beginning of shrimp season as set by the state yearly), until October 31, the bridge would open on signal from 7 a.m. to 7 p.m. and open on four hours notice from 7 p.m. to 7 a.m.

b. From November 1 through December 22, the draw would open on signal from 7 a.m. to 3 p.m. and from 3 p.m. to 7 a.m. open on four hours notice.

c. From December 22, until about May 25, the draw would open on 24 hours notice.

Presently the bridge opens on signal from May 25, until December 22. Alternate routes are available.

The Coast Guard received four letters in response to the NPRM. One of the letters was from a business owner whose business was dependent upon access by waterway users to deliver their product to his facility. He stated that the change would force a closure of his business. The applicant and the bridge owner began discussions to attempt to resolve their differences, but were unable to reach any agreement. Since that time, the business owner has sold his business. Subsequently, the business has closed completely. The Louisiana Department of Transportation and Development (LDOTD) has resubmitted a proposal requesting a new operating schedule.

Background and Purpose

LDOTD has requested the new regulation because of a decline in vessel traffic that passes the Kelso Bayou bridge at Hackberry during certain times of the year. The proposed rule would allow the bridge owner relief from having a person available at the bridge site during the periods when vessel traffic is less frequent. This proposed rule would create a savings to the taxpayer while still serving the reasonable needs of navigational interests.

Discussion of Supplemental Proposed Rule

The Kelso Bayou bridge is a 406-foot long structure. Navigational clearances provided by the bridge are 9.1 feet vertical above mean high water in the closed position and unlimited in the open position. Horizontal clearance is 50 feet. Navigation on the waterway consists mainly of small and large fishing boats and occasional small oil field work boats.

The proposed regulation would require that from May 20, until October 31, the draw would open on signal from 7 a.m. until 7 p.m. From 7 p.m. until 7 a.m., the draw would open on signal if at least four hours notice is given. From November 1, through December 22, the draw would open on signal from 7 a.m. to 3 p.m. From 3 p.m. to 7 a.m., the draw would open on signal if at least four hours notice is given. From December 23, until May 19, the draw would open on signal if at least 24 hours notice is given. Alternate routes are available.

Data provided by LDOTD show that from January 1, through December 31, 1997, the number of vessels that passed the bridge totaled 803. Between January 1, and May 20, the bridge opened a total of 13 times for the passage of vessels. Due to the limited number of openings, LDOTD has requested an increase in notification from four hours to 24 hours between December 23 and May 19. Between May 20, and October 31, the bridge opened 682 times for the passage of vessels. Between November 1, and December 31, the bridge opened 108 times for the passage of vessels. Of the 803 openings, 579 occurred between the hours of 7 a.m. and 7 p.m. and 224 occurred between the hours of 7 p.m. and 7 a.m. Due to the limited openings at night, LDOTD has requested that the 4-hour notification, used at other times during the year, be extended to include

night time hours during shrimp season. These changes would provide a savings to the taxpayer and still serve the reasonable needs of navigation. Alternate routes are available at all times. They are the Calcasieu Ship Channel, the Intercoastal Canal and the Salt Ditch.

Regulatory Evaluation

This proposed 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. It has not been reviewed by the Office of Management and Budget 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).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include (1) small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and (2) governmental jurisdictions with populations of less than 50,000.

The proposed rule also considers the needs of local commercial fishing vessels and the economic impact is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think you qualify and in what way and to what degree this proposed rule will economically affect you.

Collection of Information

The proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under Figure 2-1, CE #32(e) of the NEPA Implementing Procedures, COMDINST M16475.IC, this proposed rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

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, 105 Stat. 5039.

2. Section 117.459 is revised to read as follows:

§ 117.459 Kelso Bayou.

The draw of the S27 bridge mile 0.7 at Hackberry, shall operate as follows:

(a) From May 20, until October 31, the draw shall open on signal from 7 a.m. to 7 p.m. From 7 p.m. to 7 a.m., the draw shall open on signal if at least four hours notice is given.

(b) From November 1 through December 22, the draw shall open on signal from 7 a.m. to 3 p.m. From 3 p.m. to 7 a.m., the draw shall open on signal if at least four hours notice is given.

(c) From December 23 until May 19, the draw shall open on signal if at least 24 hours notice is given.

Dated: March 18, 1998.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.

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