

SUPPLEMENTARY INFORMATION:**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05-94-093) and the specific section of this proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

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

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander (ob) at the address under **ADDRESSES**. The request should include 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 to be announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are Mr. J. Arca, Fifth Coast Guard District, Bridge Branch-NY, Project Officer, and LCDR C.A. Abel, Fifth Coast Guard District Legal Office, Project Attorney.

Background and Purpose

The Lower Bank highway bascule bridge over the Mullica River in Lower Bank, New Jersey was replaced in 1993. It has a vertical clearance of 13 feet above mean high water (MHW) in the closed position, which is 4 feet higher than the previous bridge in the closed position. During the period from December 1993 through April 1994, a period of 151 days, requests for bridge openings occurred on only 34 days. The current operating regulations, which were implemented in January 1988, require the Lower Bank bridge to open on signal, except that it is required to open with four hours advance notice from April 1 through November 30 from 11 p.m. to 7 a.m., and from December 1 through March 31, from 4:30 p.m. to 8 a.m. This proposed change to the regulations would extend the winter

seasonal restrictions into April and increase the four hours advance notice requirement to apply to all requests for bridge openings during the winter months. This change, if adopted, will provide the bridge owner relief from the burden of constantly having a person available to open the bridge, when there is no sufficient justification to do so.

Burlington County has requested a change to the present operating regulations in 33 CFR 117.731a which would allow the Lower Bank Bridge to operate as follows: The draw of the Lower Bank Bridge would need not open unless at least four hours advance notice is given during the following periods, May 1 through November 30, from 11 p.m. to 7 a.m. and from December 1 to April 30 at all times. At all other times, the bridge would open on signal. This change to the regulations is being proposed due to infrequent requests for openings. The proposed change to the regulation will relieve the bridge owner of the burden of having personnel at the bridge at night and during the winter months. The bridgetenders will be on call to open the draw when the four hour advance notice is given to the bridge owner by calling the number that will be posted at the bridge; therefore, the reasonable needs of navigation will be met.

Regulatory Evaluation

This proposal 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 been exempted from review 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 proposal to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the regulation will not prevent mariners from transiting the bridge. Rather, it will only require mariners to plan their transits and provide advance notice.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that

otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.E.(32)(e) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement and checklist has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, 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).

2. In section 117.731a paragraph (a) is revised to read as follows:

§ 117.731a Mullica River.

* * * * *

(a) The draw of the Lower Bank bridge, mile 15.0, need not open unless at least four hours notice is given during the following periods:

(1) From May 1 through November 30, from 11 p.m. to 7 a.m.

(2) From December 1 through April 30, at all times.

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