

MODEL MILESTONES—Continued
[10 CFR Part 2, Subpart N]

• Within 50 days of date of enforcement order: • Within 30 days of presiding officer decision granting hearing: • Within 40 days of presiding officer decision granting hearing: • Within 60 days of presiding officer decision granting hearing: • Within 30 days of end of evidentiary hearing and closing of record:	Presiding officer decision on requests for hearing and confirms use of Subpart N procedures (note: if presiding officer concludes that Subpart N procedures should not be used, the Model Milestone for Enforcement Actions under Subpart G are applicable). Mandatory disclosures complete. Prehearing conference to specify issues for hearing and set schedules for remaining course of proceeding. Evidentiary hearing begins. Presiding officer issues initial decision.
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Dated at Rockville, Maryland, this 14th day of April, 2005.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 05-7846 Filed 4-19-05; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-04-126]

RIN 1625-AA09

Drawbridge Operation Regulations: Cheesequake Creek, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations that govern the operation of the S35 Bridge, mile 0.0, across Cheesequake Creek at Morgan, South Amboy, New Jersey. This final rule allows the bridge to open on the hour only from 7 a.m. to 8 p.m., May 1 through October 31. In addition, this rule allows the bridge owner to require a 4-hour advance notice for openings from 11 p.m. to 7 a.m. all year, and all day from November 1 through April 30. This rule is expected to relieve the bridge owner of the burden of crewing the bridge at all times while still providing for the reasonable needs of navigation.

DATES: This rule is effective May 20, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-04-126) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7

a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668-7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 17, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Cheesequake Creek, New Jersey, in the **Federal Register** (69 FR 75493). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The S35 Bridge has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position. The existing drawbridge operation regulations listed at 33 CFR 117.709(a), require the bridge to open on signal; except that, from May 15 through October 15 from 7 a.m. to 7 p.m., the draw need only open on the hour. From December 1 through March 31 from 11 p.m. to 7 a.m., the draw need not be opened for the passage of vessels.

Cheesequake Creek is navigated predominately by small recreational vessels between April and November only. The bridge seldom opens during the winter months December through March.

The bridge owner, New Jersey Department of Transportation (NJDOT), requested that the drawbridge operation regulations for the S35 Bridge be changed to allow the bridge to open on the hour only from 7 a.m. to 8 p.m., May 1 through October 31. The hourly openings are currently in effect from 7 a.m. to 7 p.m., May 15 through October 15.

In addition, this final rule allows the bridge owner to require a 4-hour advance notice for bridge openings from 11 p.m. to 7 a.m. all year round and all day from November 1 through April 30. Bridge openings during the on-call time

period may be obtained by calling the number posted at the bridge.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, no changes have been made to this final rule.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 Homeland Security (DHS).

This conclusion is based on the fact that the bridge will continue to open for vessel traffic during the time periods vessel traffic has historically required the bridge to open.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered 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 less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the bridge will continue to open for vessel traffic during the time periods vessel traffic has historically required the bridge to open.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

No small entities requested Coast Guard assistance and none was given.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 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.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this final rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined that this final rule does not significantly impact the environment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Section 117.709 is amended by revising paragraph (a) to read as follows:

§ 117.709 Cheesequake Creek.

(a) The draw of the of the S35 Bridge, at mile 0.0, at Morgan, South Amboy, New Jersey, shall operate as follows:

(1) From May 1 through October 31 from 7 a.m. to 8 p.m., the draw need only open on the hour. From 8 p.m. to 11 p.m. the Draw shall open on signal. From 11 p.m. to 7 a.m. the draw shall open after at least a 4-hour advance notice is given by calling the number posted at the bridge.

(2) From November 1 through April 30 the draw shall open on signal after at least a 4-hour advance notice is given by calling the number posted at the bridge.

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Dated: April 11, 2005.

David P. Peskoske,
Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.

[FR Doc. 05–7896 Filed 4–19–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117****[CGD 11-05-025]****RIN 1625-AA09****Drawbridge Operation Regulation; Napa River, CA****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the draw of the Maxwell Highway Bridge, mile 17.6, near Imola, CA. The drawbridge has been removed from the waterway. Therefore, the regulation controlling the operation of the drawbridge is no longer necessary.

DATES: This rule is effective April 20, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of the docket CGD 11-05-025, and are available for inspection or copying at the office of the Eleventh Coast Guard District, Bridge Section, Building 50-3, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Maxwell Drawbridge has been removed and replaced by a fixed, high-level bridge. Since the drawbridge no longer exists, the operating schedule in 33 CFR 117.169(c) is no longer needed and is being removed.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**, because, as explained above, it eliminates the governing regulation at 33 CFR 117.169(c) for a drawbridge that has been removed from the waterway.

Background and Purpose

On February 4, 2002 the Coast Guard issued a permit for a fixed, high-level bridge to replace the Maxwell Highway drawbridge, mile 17.6, near Imola, CA.

Land traffic has been shifted to the replacement bridge and the drawbridge, governed by 33 CFR 117.169(c), has been removed.

Discussion of Rule

This final rule removes paragraph (c), regarding the Maxwell Highway Drawbridge, from section 117.169.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 Homeland Security (DHS).

A special operating regulation exists for this drawbridge. This drawbridge has been removed from the waterway, making the regulation unnecessary. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered 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 will not have a significant economic impact on a substantial number of small entities. This rule, to remove an obsolete drawbridge regulation, will have no impact on any small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule will not affect 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not cause an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order