

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket No. USCG–2009–0204]

RIN 1625–AA09

**Drawbridge Operation Regulation; Mantua Creek, Paulsboro, NJ**

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the drawbridge operation regulations of the S.R. 44 Bridge, at mile 1.7, across Mantua Creek at Paulsboro, NJ. This proposal would allow the drawbridge to operate on an advance notice basis year-round. The proposed change would result in more efficient use of the bridge.

**DATES:** Comments and related material must be received by the Coast Guard on or before June 8, 2009.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG–2009–0204 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

*http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. 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 Gary S. Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6629. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:****Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting

comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

**Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0204), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material Online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment Online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered having been received by the Coast Guard when it is received at the Docket Management Facility.

To submit your comment Online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2009–0204” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this proposed rule in view of them.

**Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0204 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays or at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between

8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**Privacy Act**

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The New Jersey Department of Transportation (NJDOT) is responsible for the operation of the S.R. 44 Bridge, at mile 1.7, across Mantua Creek at Paulsboro, NJ. Due to the decrease in vessel opening requests of the drawbridge in recent years, NJDOT requested to change the current operating regulations by requiring that the draw need open only if at least four hours advanced notice is given year round.

The S.R. 44 Bridge has a vertical clearance of five feet above mean high water in the closed-to-navigation position. The existing operating regulation is set out in 33 CFR 117.729(b), which requires the draw to open on signal from March 1 through November 30 from 7 a.m. to 11 p.m., and shall open on signal at all times upon four hours notice.

From the 1920s to the 1960s, Mantua Creek was the waterway route for commercial vessel traffic servicing refineries and factories along the waterfront in Paulsboro, NJ. There are no longer any commercial navigational interests requiring daily access upstream of the Route 44 Bridge.

Bridge opening data, supplied by NJDOT, revealed a significant decrease in yearly openings. For the years from 2003 to 2007, inclusive, from March 1 through November 30 between 7 a.m. to 11 p.m., the bridge opened for vessels 204, 206, 83, 120 and 113 times, respectively. (See Table A)

TABLE A

MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
BRIDGE OPENINGS FOR 2003								
7	1	10	31	38	64	36	12	5
BRIDGE OPENINGS FOR 2004								
0	2	28	30	42	43	35	15	11
BRIDGE OPENINGS FOR 2005								
0	1	19	27	29	7	0	0	0
BRIDGE OPENINGS FOR 2006								
0	0	14	14	38	30	14	6	4
BRIDGE OPENINGS FOR 2007								
4	4	13	30	17	19	26	0	0

### Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.729(b), by revising the paragraph to read that the draw of the S.R. 44 Bridge, mile 1.7 at Paulsboro, need open only if at least four hours notice is given. The proposed change would result in more efficient use of the bridge.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the proposed scheduled bridge openings, to minimize delays.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit the bridge from March 1 through November 30 from 7 a.m. to 11 p.m.

This proposed rule would not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the proposed scheduled bridge openings can minimize delay.

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.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, 757–398–6222. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### 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).

### 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 proposed 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 proposed 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 proposed rule would 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 proposed 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 proposed 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 create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

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.

### Energy Effects

We have analyzed this proposed 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 proposed rule under Department of Homeland Security Management Directive 0023.1, and Commandant Instruction M16475.D 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 because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### 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. Revise § 117.729(b) to read as follows:

#### § 117.729 Mantua Creek

\* \* \* \* \*

(b) The draw of the S.R. Bridge, mile 1.7, at Paulsboro, need open only if at least four hours notice is given.

Dated: April 6, 2009.

**Fred M. Rosa, Jr.,**

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

[FR Doc. E9–9447 Filed 4–23–09; 8:45 am]

**BILLING CODE 4910–15–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R05–OAR–2008–0239; FRL–8896–4]

#### Approval and Promulgation of Air Quality Implementation Plans; Minnesota

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve site-specific revisions to the Minnesota sulfur dioxide (SO<sub>2</sub>) State Implementation Plan (SIP) for the Federal Cartridge Company and Hoffman Enclosures, located in the city of Anoka, Anoka County, Minnesota. On March 3, 2008, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain portions of joint Title I/Title V documents into the Minnesota SO<sub>2</sub> SIP for Federal Cartridge Company and Hoffman Enclosures. The State is also requesting in this submittal that EPA rescind the Administrative Order issued to Federal Hoffman, Inc. which is currently included in Minnesota's SIP for SO<sub>2</sub>. The emissions units previously owned by Federal Hoffman, Inc., are now owned by Federal Cartridge Company and Hoffman Enclosures. Because the sulfur dioxide emission limits are being reduced, the air quality of Anoka County will be protected.

**DATES:** Comments must be received on or before May 26, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2008–0239, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).
3. *Fax*: (312) 692–2551.
4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.