

commuter hours from 6:30 a.m. to 8:30 a.m. and 5 p.m. to 7 p.m.; one comment requested closure periods of the bridge on all days between 5 p.m. and 7 p.m.; and another letter considered operating the bridge to open hourly from 8 a.m. to 4 p.m. during the months of March, April, October and November and only open with a 24-hour advance notice during December, January and February. Two comments, one from the U.S. Fish and Wildlife Service and the other from the New Jersey Historic Preservation Office, had no objection to the issuance of the proposed regulations.

Two of the remaining three comments opposed the proposed changes to the regulations and one had no opinion to the proposed regulation. One comment from a yacht club stated that their membership objects to any changes to the proposed regulations for the following reasons: safety, the environment and liability losses. Another comment suggested a reduction of the bridge closure period to 5 p.m. to 7 p.m., especially if done five days a week, and emergency openings for boater safety. The Coast Guard responded to this comment in writing and indicated that in the event of marine emergency 33 CFR 117.31(b) provides for unscheduled openings of the bridge. The last comment requested a height restriction placed on vessels with lowerable appurtenances (*i.e.* antennas etc.) that transit under the bridge. All comments and the Coast Guard's written response to those comments are contained in the docket.

Based on these comments the Coast Guard conducted further review of the proposal. Further review of the bridge logs reveal from 1999 through 2001, the bridge opened year-round from 4 p.m. to 7 p.m., Mondays through Thursdays, 72, 73, and 60 times respectively. In view of these statistics, the Coast Guard is proposing a different change to the regulation by scheduling the openings of the draw year-round from 7 a.m. to 11 p.m. to once an hour and with closure periods year-round from 4 p.m. to 7 p.m. Mondays to Fridays. These changes would enhance vehicular traffic without significantly affecting vessel traffic. Considering the minimal number of openings identified by the bridge logs, the Coast Guard believes that the revised proposal will more fairly balance the needs of vehicular and vessel traffic.

Discussion of Proposal

On September 12, 2002, the Coast Guard issued a NPRM proposing to amend 33 CFR 117.727 by inserting a provision to schedule the required openings of the draw year-round from 7

a.m. to 11 p.m. to once an hour with closure periods from 4 p.m. to 7 p.m. on Fridays.

Upon receiving comments to this proposal and further reviewing the bridge logs, the Coast Guard now proposes to amend 33 CFR 117.727 by inserting a new provision to limit the required openings of the draw year-round from 7 a.m. to 11 p.m. to once an hour with closure periods from 4 p.m. to 7 p.m. Mondays through Fridays.

Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

We reached this conclusion based on the fact that the supplemental proposed changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings, to further minimize delay.

Small Entities

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

The supplemental 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 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 supplemental 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 any questions concerning its provisions or options for compliance, please contact Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

Collection of Information

This supplemental 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 supplemental 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 supplemental 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 supplemental proposed 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.