

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
Seventh Coast Guard District

909 S.E. First Avenue
Miami, FL 33131-3050
Staff Symbol: (obr)
Phone: (305) 415-6744
Fax: (305) 415-6763
Email: mlieberum@d7.uscg.mil

16593/Palm Beach
March 11, 2004

Public Notice 14-04

The Coast Guard proposes to change the regulations governing the operation of most of the Palm Beach County bridges across the Atlantic Intracoastal Waterway, Palm Beach County, Florida. The proposed rule would require these bridges to open twice an hour with the Boca Club, Camino Real bridge opening three times per hour. The proposed schedule is based on a test the Coast Guard held from March, 2003, until June, 2003. The proposed schedules would meet the reasonable needs of navigation while accommodating increased vehicular traffic throughout the county

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-04-010]
RIN 1625-AA09

Drawbridge Operation Regulations; Palm Beach
County Bridges, Atlantic Intracoastal Waterway,
Palm Beach County, Florida

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of most of the Palm Beach County bridges across the Atlantic Intracoastal Waterway, Palm Beach County, Florida. The proposed rule would require these bridges to open twice an hour with the Boca Club, Camino Real bridge opening three times per hour. The proposed schedule is based on a test the Coast Guard held from March, 2003, until June, 2003. The proposed schedules would meet the reasonable needs of navigation while accommodating increased vehicular traffic throughout the county.

DATES: Comments and related material must reach the Coast Guard on or before May 10, 2004.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, Florida 33131. Commander (obr) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of [CGD07-04-010] and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Seventh Coast Guard District, Bridge Branch, telephone number 305-415-6743.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07-04-010], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We

will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. However, you may submit a request for a meeting by writing to Bridge Branch, Seventh Coast Guard District, at the address under ADDRESSES, explaining 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 Coast Guard performed a test of the proposed schedule on the Palm Beach County bridges in the spring of 2003 that was published in the Federal Register, March 19, 2003, (68 FR 13227)(CGD07-03-031). The test was for 90 days to collect data to determine the feasibility of changing the regulations on most of the bridges in Palm Beach County to meet the increased demands of vehicular traffic but still provide for the reasonable needs of navigation. The test results indicated that the proposed schedule would improve vehicular traffic flow while still meeting the reasonable needs of navigation. During the test period, vessel requests for openings remained at or below an average of two per hour with the exception of Camino Real bridge. A computer modeling of that bridge prescribed an opening schedule of three times per hour as an optimum for a combination of vehicular and vessel traffic. The schedules allowed both vehicular and vessel traffic the opportunity to predict on a scheduled basis, when the bridges would possibly be in the open position. We received 2,541 comments, 1,560 were in favor of the test schedules, 965 were in favor of keeping the existing schedules and 16 comments provided an optional modification of existing schedules. Two petitions were received with 1,018 signatures for the new test schedule, 840 were opposed to the new test schedule. We received one form letter from 138 commentors who were for the new test schedule. We received 9 comments for the new schedule from local government agencies and 529 from individual citizens, 404 were for the new schedules and 125 were opposed to the new schedule. Of all the comments, 1,958 specifically concerned the Boca Club, Camino Real bridge. The remaining comments were general in nature and were not directed at a specific bridge in the test. The commentors for the new schedules represented vehicular operators and those against the new schedule were vessel operators.

The change in operating regulations was requested by various Palm Beach County public officials to ease vehicular traffic, which has overburdened roadways, and to standardize bridge openings throughout the county for vessel traffic. The proposed rule would allow most of the bridges in Palm Beach County to operate on a standardized schedule, which would meet the reasonable needs of navigation and improve vehicular traffic movement. The proposed rule would provide for staggered schedules in order to facilitate the movement of vessels from bridge to bridge along the Atlantic Intracoastal Waterway. The existing regulations governing the operation of the Palm Beach County bridges are published in 33 CFR 117.5 and 117.261. This proposed rule includes all bridges across the Atlantic Intracoastal Waterway in Palm Beach County, except Jupiter Lighthouse bridge, mile 1004.1, and Jupiter Federal bridge, mile 1004.8. These two bridges would continue to operate on their current schedules.

Based on the results of the test that was conducted during the spring of 2003 and a computer modeling of the Palmetto Park and Camino Real bridges, the proposed rule would not adversely affect the reasonable needs of navigation.

Discussion of Proposed Rule

The Coast Guard proposes to change the operating regulations of most of the bridges in Palm Beach County that cross the Atlantic Intracoastal Waterway. This proposed rule includes all bridges across the Atlantic Intracoastal Waterway in Palm Beach County, except Jupiter Lighthouse bridge, mile 1004.1, and Jupiter Federal bridge, mile 1004.8. The proposed rule would allow the following bridges to operate as indicated:

Open on Signal--

- Lake Avenue, mile 1028.8
- Woolbright Road, mile 1035.8

Open on the hour and half hour--

- Indiantown Road, mile 1006.2
- Donald Ross, mile 1009.3
- PGA Boulevard, mile 1012.6
- Royal Park (SR 704), mile 1022.6
- Southern Boulevard (SR 700/80), mile 1024.7
- Ocean Avenue (Lantana), mile 1031.1
- Ocean Avenue (Boynton Beach), mile 1035.0
- N.E. 8th Street (George Bush), mile 1038.7
- Spanish River, mile 1044.9
- Palmetto Park, mile 1047.5

Open on the quarter hour and three quarter hour--

- Parker (US 1), mile 1013.7
- Flagler Memorial (SR A1A), mile 1021.9
- Atlantic Avenue (SR 806), mile 1039.6

Linton Boulevard, mile 1041.1
Open on the hour, 20 minutes past the hour and 40
minutes past the hour--
Boca Club, Camino Real, mile 1048.2

This proposed rule does not affect the Jupiter
Lighthouse bridge, mile 1004.1, and the Jupiter
Federal bridge, mile 1004.8, which would continue to
operate on their current schedules. Public vessels of
the United States, tugs with tows and vessels in
distress will be passed at anytime.

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 (DHS). The Coast Guard expects
the economic impact of this proposed rule to be so
minimal that a full Regulatory Evaluation under the
policies and procedures of the Department of
Homeland Security is unnecessary. The proposed rule
would provide timed openings for vehicular traffic
and sequenced openings for vessel traffic and would
have little, if any, economic impact.

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.

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 this proposed rule would affect
your small business, organization, or governmental
jurisdiction and you have questions concerning its
provisions or options for compliance, please contact
the person listed under FOR FURTHER
INFORMATION CONTACT.

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 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 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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this proposed 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. Under figure 2-1, paragraph (32)(e), an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); Section 117.255 also issued under authority of Pub. L. 102-587, 106 Stat. 5039.

2. In Sec. 117.261 add paragraphs (q) and (y); revise paragraphs (r) through (x) and (z) and paragraphs (aa) and (aa-1); and add new paragraphs (z-1), (z-2) and (z-3) to read as follows:

* * * * *

(q) Indiantown Road bridge, mile 1006.2. The draw shall open on the hour and half-hour.

(r) Donald Ross bridge, mile 1009.3, at North Palm Beach. The draw shall open on the hour and half-hour.

(s) PGA Boulevard bridge, mile 1012.6, at North Palm Beach. The draw shall open on the hour and half-hour.

(t) Parker (US-1) bridge, mile 1013.7, at Riviera Beach. The draw shall open on the quarter and three-quarter hour.

(u) Flagler Memorial (SR A1A) bridge, mile 1020.9, at Palm Beach. The draw shall open on the quarter and three-quarter hour.

(v) Royal Park (SR 704) bridge, mile 1022.6, at Palm Beach. The draw shall open on the hour and half-hour.

(w) Southern Boulevard (SR 700/80) bridge, mile 1024.7, at Palm Beach. The draw shall open on the hour and half-hour.

(x) Ocean Avenue bridge, mile 1031.0, at Lantana. The draw shall open on the hour and half-hour.

(y) Ocean Avenue bridge, mile 1035.0, at Boynton Beach. The draw shall open on the hour and half-hour.

(z) N.E. 8th Street (George Bush) bridge, mile 1038.7, at Delray Beach. The draw shall open on the hour and half-hour.

(z-1) Atlantic Avenue (SR 806) bridge, mile 1039.6, at Delray Beach. The draw shall open on the quarter and three-quarter-hour.

(z-2) Linton Boulevard bridge, mile 1041.1, at Delray Beach. The draw shall open on the quarter and three-quarter hour.

(z-3) Spanish River bridge, mile 1044.9, at Boca Raton. The draw shall open on the hour and half-hour.

(aa) Palmetto Park bridge, mile 1047.5, at Boca Raton. The draw shall open on the hour and half-hour.

(aa-1) Boca Club, Camino Real bridge, mile 1048.2, at Boca Raton. The draw shall open on the hour, twenty minutes past the hour and forty minutes past the hour.

* * * * *

Dated: February 24, 2004.
Harvey E. Johnson, Jr.,
Rear Admiral, U.S. Coast Guard, Commander,
Seventh Coast Guard
District.
[FR Doc. 04-5348 Filed 3-9-04; 8:45 am]