

U.S. Department of
Homeland Security

United States
Coast Guard



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16593/Palm Beach
June 17, 2004

Public Notice 24-04

The Coast Guard is changing the operating regulations of most of the Palm Beach County bridges across the Atlantic Intracoastal Waterway, Palm Beach County, Florida. The schedule will meet the reasonable needs of navigation while accommodating increased vehicular traffic flow throughout the county. This rule will require these bridges to open twice an hour with the Boca Club, Camino Real bridge opening three times per hour.

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, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulations of most of the Palm Beach County bridges across the Atlantic Intracoastal Waterway, Palm Beach County, Florida. The schedule will meet the reasonable needs of navigation while accommodating increased vehicular traffic flow throughout the county. This rule will require these bridges to open twice an hour with the Boca Club, Camino Real bridge opening three times per hour.

DATES: This rule is effective July 19, 2004.

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 [CGD07-04-010] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Bridge Branch (obr), Seventh Coast Guard District, maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT:
Mr. Barry Dragon, Project Manager,
Seventh Coast Guard District,
Bridge Branch, (305) 415-6743.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 10, 2004, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled Drawbridge Operation Regulations; Palm Beach County Bridges, Atlantic Intracoastal Waterway, Palm Beach County, Florida, in the Federal

Register (68 FR 11351). We received 733 comments on this NPRM. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard performed a 90-day 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 purpose of the test was 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 optimal for a combination of vehicular and vessel traffic. The schedule allowed both vehicular and vessel traffic the opportunity to predict, on a scheduled basis, when the bridges would possibly be in the open position.

In light of the test period and follow-on computer modeling, the Coast Guard published a Notice of Proposed Rulemaking in the Federal Register on March 10, 2004 (69 FR 11351) (CGD07-04-010) delineating this proposed new schedule. We received 733 comments: one form letter from 440 commentors in favor of the schedules, 1 petition with 131 signatures in favor of the schedules, 145 letters from individual citizens in favor of the schedules, 4 letters from municipalities in favor of the schedules, 8 letters with various recommendations regarding different

schedules and 5 letters opposing the new schedules. In addition, we received 52 e-mails with no identifiable names or addresses.

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 rule will 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 rule will provide for staggered schedules in order to facilitate the movement of vessels from bridge to bridge along the Atlantic Intracoastal Waterway.

Discussion of Comments and Changes

We received 733 comments on the NPRM: 720 were in favor of the proposed rule, 5 were against and 8 had alternative recommendations. Two commentors recommended that the schedule for Linton Boulevard and NE. 8th Street (George Bush) be altered slightly to improve vessel traffic without impacting vehicular traffic. This recommendation was incorporated into the rule. One municipality requested an exemption for commercial vessels in their city and in a neighboring city. Tugs with tows will be exempt from this rule.

There were 440 form letters in favor of the rule which recommended a morning and afternoon curfew period. Two of the comments from municipalities requested additional curfew periods in their cities. The comments regarding morning and afternoon curfew periods were not able to be incorporated into this rule. The previous test period and extensive study disclosed that the bridges in question opened less than twice an hour and that closing the bridges for an hour unnecessarily restricts vessel traffic. As a result, the schedule

is set for a constant twenty-four hours a day, every day of the week.

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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The rule affects vessel traffic through these bridges only in that vessels will need to time their passage through these bridges.

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 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 rule affects all vessel traffic through these bridges. Vessels will need to time their passage through these bridges to meet the twice an hour openings and the twenty-minute schedule of the Camino Real bridge.

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. The Coast Guard offered small businesses, organizations, or governmental jurisdictions that believed the rule would affect them, or that had questions concerning its provisions or options for compliance, to contact the person listed in FOR FURTHER INFORMATION CONTACT.

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 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 will not create 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 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 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 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), of the Instruction, 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 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 authority of Pub. L. 102-587, 106 Stat. 5039.

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

Sec. 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(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 1020.8, 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) [Reserved]

(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 hour and half-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: June 4, 2004.
Harvey E. Johnson, Jr.,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard
District.
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8:45 am]
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