



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0330]

RIN 1625-AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Sarasota, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule of four bridges across the Gulf Intracoastal Waterway (GICW); Stickney Point Drawbridge, mile 68.6, Siesta Drive Drawbridge, mile 71.6, Cortez Drawbridge, mile, 87.4, and Anna Maria Drawbridge, mile 89.2, in Sarasota, FL. The request was made to the Coast Guard to change the operation of four drawbridges due to an increase in vehicle traffic throughout these areas at all times of the year. This rulemaking would change the bridges' operating schedules from a three times an hour opening schedule to a twice an hour opening schedule throughout the year.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0330. In the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or e-mail, Ms. Jennifer Zercher with the Seventh Coast Guard District Bridge Office; telephone (305) 415-6740, e-mail Jennifer.N.Zercher@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
GICW	Gulf Intracoastal Waterway
OMB	Office of Management and Budget
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On February 13, 2017, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Sarasota, FL in the Federal Register (82 FR 10444). We received 125 comments on this rule. 118 comments were in favor of this regulation change and 7 were against this change.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499.

Stickney Point Bridge across the GICW, mile 68.6, at South Sarasota, Florida is a bascule bridge. This drawbridge has a vertical clearance of 18 feet in the closed position and a horizontal clearance of 90 feet between fenders. Presently, in accordance with 33 CFR 117.5, the Stickney Point Bridge is required to open on demand.

Siesta Drive Bridge across the GICW, mile 71.6, at Sarasota, Florida is a bascule bridge. This drawbridge has a vertical clearance of 25 feet in the closed position and a horizontal clearance of 90 feet between fenders. Presently, in accordance with 33 CFR

117.287(c), the Siesta Drive Bridge is required to open on signal, except that from 6 a.m. to 7 p.m., the draw need only open on the hour, twenty minutes past the hour and forty minutes past the hour. On weekends and Federal holidays, from 11 a.m. to 6 p.m., the draw need open only on the hour, twenty minutes past the hour and forty minutes past the hour.

Cortez (SR 684) Bridge across the GICW, mile 87.4, at Bradenton Beach, Florida is a bascule bridge. This drawbridge has a vertical clearance of 22 feet in the closed position and a horizontal clearance of 90 feet between fenders. Presently, in accordance with 33 CFR 117.287 (d)(1), the Cortez (SR 684) Bridge is required to open on signal, except that from 6 a.m. to 7 p.m., the draw need only open on the hour, 20 minutes after the hour, and 40 minutes after the hour. From January 15 to May 15, from 6 a.m. to 7 p.m., the draw need only open on the hour and half hour.

Anna Maria (SR 64) (Manatee Avenue West) Bridge, mile 89.2, at Bradenton Beach, Florida is a bascule bridge. This drawbridge has a vertical clearance of 24 feet in the closed position and a horizontal clearance of 90 feet between fenders. Presently, in accordance with 33 CFR 117.287(d)(2), the Anna Maria (SR 64) (Manatee Avenue West) Bridge is required to open on signal, except that from 6 a.m. to 7 p.m., the draw need only open on the hour, 20 minutes after the hour, and 40 minutes after the hour. From January 15 to May 15, from 6 a.m. to 7 p.m., the draw need only open on the hour and half hour.

The Metropolitan Planning Office for Sarasota and Manatee Counties, along with the concurrence of the local mayors, have requested that the Coast Guard consider changing the bridge operating regulations for four bridges in this area to accommodate a year-round increase of vehicular traffic. In the past, increased traffic was only associated with the tourist season. For this reason, the Coast Guard is modifying the four bridge schedules to provide

for both the reasonable needs of navigation and those of land transportation. The bridge owner, Florida Department of Transportation, concurs with these recommendations.

IV. Discussion of Comments, Changes and the Final Rule

There were seven comments opposing the final rule. Six comments were against modifying the existing schedule and one comment suggested that even with this modified schedule the bridge will still open too often. Not allowing these bridges to open at least twice an hour would place an undue burden on the marine community. Two of the comments suggested the City/County/State should look into putting in higher level bridges and do a traffic management study, as the problem is traffic control, not the bridge openings. These comments were directed to the bridge owner. Four comments stated that having vessels waiting for a half-hour for the bridge to open could be a safety concern. As the timing between bridge openings has been adjusted to accommodate traveling at a no wake speed between the bridges, vessels should not have to wait for longer than 5 to 10 minutes for an opening. Of these four comments sighting safety concerns, one commenter has posted the same concern twice. No adjustments have been made to this regulation based on the comments.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the ability that vessels can still transit the bridges during the scheduled openings. Vessels that can transit the bridge in the closed position may continue to do so. Public vessels of the United States and tugs with tows may request an opening at any time.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this rule. 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.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this final rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. 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 the person listed in the FOR FURTHER INFORMATION CONTACT, above.

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). 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.

C. 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).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

E. 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 (adjusted for inflation) 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, 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 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. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the “For Further Information Contact” section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

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; 33 CFR 1.05-1; and Department of Homeland Security

Delegation No. 0170.1.

2. Amend §117.287 by revising paragraphs (c) and (d) to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(c)(1) The Stickney Point Bridge, mile 68.6, at South Sarasota, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the hour and half hour.

(2) The draw of the Siesta Drive Bridge, mile 71.6, at Sarasota, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the hour and half hour.

(d)(1) The draw of the Cortez (SR 684) Bridge, mile 87.4, at Bradenton Beach, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the quarter hour and three quarter hour.

(2) The draw of the Anna Maria (SR 64) (Manatee Avenue West) Bridge, mile 89.2, at Bradenton Beach, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the quarter hour and three quarter hour.

* * * * *

Dated: 22 August 2017

Peter J. Brown

Rear Admiral, U.S. Coast Guard

Commander, Seventh Coast Guard District

[FR Doc. 2017-18710 Filed: 9/1/2017 8:45 am; Publication Date: 9/5/2017]