



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0068]

RIN 1625-AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway and Biscayne Bay, Miami, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes modifying the operating schedule that governs the Venetian Causeway Bridge (West) across the Atlantic Intracoastal Waterway mile 1088.6, Miami, FL and the operating schedule that governs the Venetian Causeway Bridge (East) across Biscayne Bay, Miami, FL. This action will extend the twice an hour opening schedule of the Venetian Causeway Bridges (East and West) across Miami Beach Channel and Atlantic Intracoastal Waterway, Miami, FL between 7 a.m. and 7 p.m., to include weekends and Federal holidays. This action is intended to reduce vehicular traffic caused by these bridges opening on demand on weekends

DATES: Comments and related material must reach the Coast Guard on or before: [Insert date 30 days after date of publication in the FEDERAL REGISTER]].

ADDRESSES: You may submit comments identified by docket number USCG-2017-0068 using Federal eRulemaking Portal at <http://www.regulations.gov>.

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 or e-mail Mr. Eddie Lawrence of the Coast Guard Bridge Branch; telephone 305-415-6946, e-mail Eddie.H.Lawrence@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code
AICW	Atlantic Intracoastal Waterway
FDOT	Florida Department of Transportation

II. Background, Purpose and Legal Basis

The Venetian Causeway Bridges (East and West) currently open on signal, except that between 7 am and 7 pm, Monday through Friday except Federal holidays these bridges open twice an hour, pursuant to 33 CFR. 117.269 and 33 C.F.R. 117.261. Miami-Dade County, the bridge owner, and the Cities of Miami and Miami Beach have requested a change to the current operating schedule for both bridges to allow for scheduled openings twice an hour to include weekends as there has been an increase in both vehicle traffic and vessel traffic during these times. Bridge logs indicate these bridges open up to four times an hour or more during peak travel times, which results in frequent vehicular traffic disruptions.

The Venetian Causeway Bridge (East) across Miami Beach Channel, Miami, FL has a vertical clearance of 5 feet at MHW in the closed to navigation position and a horizontal clearance of 57 feet between fenders.

The Venetian Causeway Bridge (West) across the Atlantic Intracoastal Waterway mile 1088.6, Miami, FL has a vertical clearance of 12 feet at MHW in the closed to navigation position and a horizontal clearance of 90 feet between fenders.

III. Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.261. Under this proposed regulation, the draw of the Venetian Causeway Bridge (West), at Miami, Florida would open twice an hour, once on the hour and once on the half-hour, between the hours of 7 a.m. and 7 p.m.

The Coast Guard proposes to amend 33 CFR 117.269. Under this proposed regulation, the draw of the Venetian Causeway Bridge (East) would open twice an hour, once on the hour and once on the half-hour, between the hours of 7 a.m. and 7 p.m.

This change will still allow vessels to pass through the bridge while taking into account the reasonable needs of other modes of transportation. Emergency vessels and tugs with tows can still request openings at any time.

IV. Regulatory Analyses

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

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 NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM 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 continued ability for vessels to transit the bridge during the twice-an-hour opening schedule. Vessels in distress, Public vessels of the United States and tugs with tows must be passed 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 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.

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

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.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. 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.).

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 proposed 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 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 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. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are 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 proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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. In §117.261, revise paragraph (nn) to read as follows:

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

* * * * *

(nn) Venetian Causeway Bridge (West). The draw of the Venetian Causeway Bridge (West) mile 1088.6, at Miami, Florida will open on signal, except that from 7 a.m. to 7 p.m. daily, including Federal holidays, the draw need only open on the hour and half hour.

* * * * *

3. Revise §117.269 to read as follows:

§117.269 Biscayne Bay.

The draw of the Venetian Causeway bridge (East), at Miami, Florida will open on signal, except that from 7 a.m. to 7 p.m. daily, including Federal holidays, the draw need only open on the hour and half hour .

Dated: 22 August 2017

Peter J. Brown,

Rear Admiral, U.S. Coast Guard,

Commander, Seventh Coast Guard District

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