

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[CGD07-05-097]

RIN 1625-AA09

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Anna Maria, FL**AGENCY:** Coast Guard, DHS.**ACTION:** Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a supplemental change to its notice of proposed rulemaking for modifying the Cortez and Anna Maria drawbridge operating regulations. This supplemental notice of proposed rulemaking is necessary to address written concerns from the public regarding the original notice of proposed rulemaking and oral comments received during a public meeting. Additionally, city officials from Anna Maria, Bradenton Beach and Longboat Key contributed their input to this rulemaking in an effort to relieve vehicular congestion on the above bridges.

DATES: Comments and related material must reach the Coast Guard on or before December 8, 2006

ADDRESSES: You may mail comments and related material to Commander (dpb), Seventh Coast Guard District, 909 SE 1st Avenue, Room 432, Miami, Florida 33131-3050. Commander (dpb) 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 this docket and will be available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 SE 1st Avenue, Room 432, Miami, Florida 33131-3050 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Seventh Coast Guard District, Bridge Branch, telephone number 305-415-6744.

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 [CGD07-05-097], 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 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 another public meeting. But 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 existing regulations of the Cortez (SR 684) Bridge, mile 87.4, and Anna Maria (SR 64) Bridge, mile 89.2 at Anna Maria, published in 33 CFR 117.287(d)(1) and (2) require the draws to open on signal, except that from 7 a.m. to 6 p.m., the draws need open only on the hour, twenty minutes past the hour and forty minutes past the hour if vessels are present.

On June 1, 2005, the city officials of Holmes Beach, in cooperation with the cities of Anna Maria and Bradenton Beach and the Town of Longboat Key, requested that the Coast Guard review the existing regulations governing the operation of the Cortez and Anna Maria Bridges due to their concern that the current drawbridge regulations were not meeting the needs of vehicle traffic.

On August 16, 2005, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Anna Maria, FL in the **Federal Register** (70 FR 48091). We received 30 comments on the proposed rule. A public meeting was held on March 29, 2006, in Holmes Beach, Florida. Approximately 40 people attended the meeting and 15 people provided oral comments.

On May 15, 2006, based on comments received from the public, the Mayors of the Cities of Anna Maria, Bradenton Beach and Holmes Beach unanimously agreed to request the bridge openings be restricted to half-hour openings from January 15th through May 15th each year.

Discussion of Comments and Changes

The Coast Guard received a total of 45 comments to the Notice of Proposed Rulemaking and the Public Meeting. The responses were supplied by 30 written comments and 15 oral comments. A few of the commenters, both verbal and written, commented on several different aspects of the proposed regulation.

We received 18 responses in favor of the proposal, 7 comments against the morning and afternoon curfew hours, 6 comments against the nighttime closures, 2 comments requested staggered hours between the two bridges rather than both opening on the same schedule, 6 comments for changes in the winter season only and 9 comments against the proposed 30-minute schedules. Two comments suggested that there should be no regulations on these bridges and they should open on demand.

Discussion of Proposed Rule

This proposed rule would require the Cortez (SR 684) and Anna Maria (SR 64) bridges, miles 87.4 and 89.2, at Anna Maria to open on signal, except that from May 16 through January 14, from 6 a.m. to 7 p.m., the draw need open only on the hour, twenty minutes past the hour and forty minutes past the hour. From January 15 through May 15, the draws need open only on the hour and half-hour from 6 a.m. to 7 p.m. The objective of this revision is to improve vehicle traffic flow on SR 684 and SR 64, especially during peak periods of increased road congestion.

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 is unnecessary. This is because vessel traffic will still be able to transit the Intracoastal Waterway in the vicinity of the Cortez and Anna Maria bridges pursuant to the revised openings schedule.

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. This proposed rule would affect the following entities, some of which may be small entities: The owners or operators of vessels needing to transit the Intracoastal Waterway in the vicinity of the Cortez and Anna Maria bridges, persons intending to drive over the bridges, and nearby business owners. The revision to the openings schedule would not have a significant impact on a substantial number of small entities. Vehicle traffic and small business owners in the area might benefit from the improved traffic flow that regularly scheduled openings will offer this area. Although bridge openings will be less frequent, vessel traffic will still be able to transit the Intracoastal Waterway in the vicinity of the Cortez and Anna Maria bridges pursuant to the revised openings schedule.

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 to the Seventh Coast Guard District Bridge Branch at the address under **ADDRESSES** explaining why you think it qualifies and how and to what degree this proposed 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 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 Seventh Coast Guard District Bridge Branch at the address under **ADDRESSES**. 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.

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, and Department of Homeland Security Management Directive 5100.1, 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 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, we believe that this rule should be 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. However, comments on this section will be considered before the final 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 the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Revise § 117.287(d)(1) and (2) to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(d)(1) Cortez (SR 684) Bridge, mile 87.4. The draw shall 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.

(2) Anna Maria (SR 64) (Manatee Avenue West) Bridge, mile 89.2. The draw shall 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.

* * * * *

Dated: October 24, 2006.

D.W. Kunkel,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. E6-18799 Filed 11-7-06; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

[USCG-2006-26136]

Potential Revision of Mandatory Ballast Water Management Reporting Requirements

AGENCY: Coast Guard, DHS.

ACTION: Notice; request for public comments.

SUMMARY: The Coast Guard requests public comments on our current ballast water management reporting and recordkeeping requirements. To provide additional opportunity for public comment, public meetings will be held in the Great Lakes and Gulf of Mexico regions. All stakeholders and interested parties are encouraged to submit comments to the docket and to attend a public meeting in or near their region.

DATES: Comments and related material must reach the Docket Management Facility on or before March 16, 2007.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2006-26136 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Web Site:* <http://dms.dot.gov>.

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

(3) *Fax:* 202-493-2251.

(4) *Delivery:* Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact LT Heather St. Pierre, Project Manager, Environmental Standards Division, Coast Guard, via telephone at 202-372-1432 or via e-mail at Heather.J.St.Pierre@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

SUPPLEMENTARY INFORMATION:

Request for Comments

All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG-2006-26136) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments by only one means. If you submit them by mail or delivery, submit them in an unbound

format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Viewing comments and documents:

To view comments, go to <http://dms.dot.gov> at any time, click on "Simple Search," enter the last five digits of the docket number for this notice, and click on "Search." You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Background and Purpose

In accordance with the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (as reauthorized and amended by the National Invasive Species Act of 1996 (NISA)), the Coast Guard promulgated ballast water management (BWM) regulations in 33 CFR part 151, subparts C and D. As part of NISA, Congress authorized the Coast Guard to require BWM reporting and recordkeeping so that we can monitor discharge trends and practices as well as monitor compliance with BWM regulations.

Subpart C of 33 CFR part 151 applies to vessels carrying ballast water after operating outside of the U.S. Exclusive Economic Zone (EEZ) that enter the Snell Lock at Massena, New York, or vessels that navigate north of the George Washington Bridge on the Hudson River. In accordance with 33 CFR 151.1516 and 151.2041(b)(1)-(2), vessels entering the Great Lakes or Hudson River, north of the George Washington Bridge, must submit BWM reports at least 24 hours prior to arrival.

The regulations in subpart D apply to all vessels, foreign and domestic, equipped with ballast tanks that operate in U.S. waters and are bound for U.S. ports or places. 33 CFR 151.2041 contains specific BWM reporting requirements. To accompany these regulations, we also published