

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD07-03-129]

RIN 1625-AA09

**Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Mile 1060.5 at Fort Lauderdale, Broward County, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the regulations governing the operation of the Oakland Park Boulevard Bridge, mile 1060.5, Fort Lauderdale, Florida. Under this temporary rule, the Bridge need open only twice an hour. This temporary rule is required to allow the bridge owner to provide for worker safety while completing repairs to the bridge.

**DATES:** This rule is effective from 6 a.m. on July 28, 2003, to 8 p.m. on October 31, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD07-03-129 and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Branch, at (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 [CGD07-03-129], 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 8½ 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.

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NRPM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM was impracticable and contrary to the public interest, because the rule was needed to allow the contractor to provide for worker safety while repairing the bridge. The emergency repair work is required before the winter season when there will be increased boating/vehicular traffic in the area. Also, since the temporary rule provides for regularly scheduled bridge openings, vessel traffic will not be unduly disrupted during the repair process.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after **Federal Register** publication. We received a request to change the bridge's operating schedule on June 10, 2003, to effect emergency repair work to the bridge before the busy winter season, and did not have sufficient time remaining to either publish an NPRM or delay the effective date of the rule. This temporary rule provides for scheduled bridge openings so as to allow the contractor to safely repair the bridge without disrupting vessel traffic.

**Background and Purpose**

The Oakland Park Boulevard Bridge, mile 1060.5 at Fort Lauderdale, Broward County, Florida, has a vertical clearance of 22 feet at mean high water and a horizontal clearance of 88 feet between the fender systems. The existing operating regulations in 33 CFR 117.261 require the bridge to open on signal from May 16 to November 14 and to open at regular intervals during the winter season.

PCL Contractors notified the Coast Guard on June 10, 2003, that work on the bascule leaves is scheduled from July 28, 2003, to October 31, 2003. For safety reasons, they request a 30-minute opening schedule during this repair period. This action is necessary to provide for worker safety during repairs to the bridge and does not significantly hinder navigation, as regularly scheduled openings will be provided.

**Discussion of Rule**

This temporary rule allows this bridge to open only on the quarter-hour and three-quarter hour from July 28, 2003, to October 31, 2003. This action is necessary for workers' safety during repairs to the bridge and does not significantly hinder navigation.

**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). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary, because the rule will affect only a small percentage of vessel traffic through this bridge, as it is not yet the winter season. The impact on vessel traffic will, at most, be a 30-minute waiting period. Regularly scheduled openings will allow vessel traffic to transit the area.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this temporary 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 temporary rule would not have a significant economic impact on a substantial number of small entities, because the regulations will affect only a limited amount of marine traffic and will still provide for their navigation needs.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this temporary rule would have a significant economic impact on it, please submit a comment to the address under **ADDRESSES**. In your comment, explain 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 (Public Law 104-121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If this temporary 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 **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 would 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

would 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. 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.

### 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. From 6 a.m. on July 28, 2003, until 8 p.m. on October 31, 2003, § 117.261, paragraph (ff), is suspended and new paragraph (uu) is added to read as follows:

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

\* \* \* \* \*

(uu) The Oakland Park Boulevard Bridge, mile 1060.5 at Fort Lauderdale, need open only on the quarter-hour and three-quarter-hour.

\* \* \* \* \*

Dated: July 22, 2003.

**H.E. Johnson, Jr.,**

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

[FR Doc. 03-19543 Filed 8-1-03; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 188

#### Harmonization With International Safety Standards

##### CFR Correction

In Title 46 of the Code of Federal Regulations, Parts 166 to 199, revised as of October 1, 2002, in part 188, on page 342, remove the second § 188.10-45.

[FR Doc. 03-55516 Filed 8-1-03; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 189

#### Frequency of Inspection

##### CFR Correction

In Title 46 of the Code of Federal Regulations, Parts 166 to 199, revised as of October 1, 2002, in part 189, on page 348, remove the second § 189.25-5.

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