

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

[CGD07-06-050]

RIN 1625-AA09

Drawbridge Operation Regulation; Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway, Mile 1088.6, and Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulations governing the Venetian Causeway (West) drawbridge, Atlantic Intracoastal Waterway, mile 1088.6, and Venetian Causeway (East) drawbridge, Biscayne Bay, Miami, Miami-Dade County, Florida. This rule requires these drawbridges to open on signal, except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays the drawbridges will open on the hour and half-hour. This rule changes the Federal holiday dates and aligns them with all Federal holidays.

DATES: This rule is effective May 16, 2007.

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 (CGD07-06-050) and are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 S.E. 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:**Regulatory Information**

On October 3, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway, Mile 1088.6, and Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, FL in the **Federal Register** 71 FR 191. We received six comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The existing regulation of the Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway mile 1088.6, Miami, Miami-Dade County, Florida, requires the draw to open promptly and fully for the passage of vessels when a request to open is given. The existing regulation of the Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, Florida, requires the draw to open on signal; except that from November 1 through April 30 from 7:15 a.m. to 8:45 a.m. and 4:45 p.m. to 6:15 p.m. Monday through Friday, the draw need not be opened. However, the draws shall open at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m. if any vessels are waiting to pass. The draw shall open on signal on Thanksgiving Day, Christmas Day, New Year's Day and Washington's Birthday. The draw shall open at any time for public vessels of the United States, tugs with tows, regularly scheduled cruise vessels, and vessels in distress.

The residents of Venetian Causeway requested the regulations of both drawbridges (East and West) be changed to allow for a 30-minute opening schedule from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays in order to relieve vehicular traffic delays.

On April 3, 2006, we published a test deviation entitled Drawbridge Operation Regulations; Venetian Causeway (West) drawbridge, Atlantic Intracoastal Waterway mile 1088.6, and Venetian Causeway (East) drawbridge, Biscayne Bay, Miami, Miami-Dade County, Florida in the **Federal Register** 71 FR 16492. We received eight comments all in favor of the test deviation.

On October 3, 2006, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** 71 FR 191. We received six comments on the proposed rule.

The current holiday listings for the Venetian Causeway (East) bridge have created confusion because they do not follow the Federal holiday schedule. This rule will align the Venetian Causeway (East) bridge to the Federal holiday schedule and eliminate the confusion.

Discussion of Comments and Changes

The Coast Guard received six responses to the notice of proposed rulemaking (NPRM). Five comments were for the proposed rule and one comment against the proposed rule.

The comment against the proposed rule stated that the East Venetian Drawbridge is too low and the half-hour schedule would cause an unreasonable restriction during the day.

The Coast Guard considered this comment and determined that the half-hour opening schedule will not cause an unreasonable delay as vessels will be able to time their transits during these opening periods.

No changes were made to the Final Rule.

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.

Although bridge openings will be less frequent, vessel traffic will still be able to transit the Intracoastal Waterway in the vicinity of the Venetian Causeway (East and West) bridges pursuant to the revised opening schedule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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. This rule would affect the following entities: The owners or operators of vessels needed to transit the Intracoastal Waterway and Biscayne Bay in the vicinity of the Venetian Causeway (East and West) 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 Venetian Causeway (East and West) bridges pursuant to the revised opening schedule.

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 process.

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 the rule or any policy or action of the Coast Guard.

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 this preamble.

Taking of Private Property

This rule will 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 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.

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

Environment

We have analyzed this 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 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); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. In § 117.261 revise paragraphs (nn) through (pp) to read as follows:

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

* * * * *

(nn) The Venetian Causeway Bridge (West), mile 1088.6, shall open on signal, except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge need only open on the hour and half-hour.

(oo) through (pp) [Reserved.]

* * * * *

■ 3. Revise § 117.269 to read as follows:

§ 117.269 Biscayne Bay.

The Venetian Causeway Bridge (East) shall open on signal, except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge need only open on the hour and half-hour.

Dated: March 19, 2007.

James Watson,

Captain, U.S.C.G., USCG District Seven Commander, Acting.

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BILLING CODE 4910–15–P