

§ 113.2 [Corrected]

3. The heading for § 113.2 is revised to read "Applicability".

Dated: February 10, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117**

[CGD09-95-004]

Drawbridge Operation Regulations; Chicago River, IL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation and public hearing; request for comments.

SUMMARY: The Commander, Ninth Coast Guard District, has authorized a 90-day deviation from the operation regulations for the draws of City of Chicago-owned bridges over the Chicago River, Illinois. The deviation is being authorized to solicit comments, data, and recommendations concerning impacts upon the various modes of transportation, to include vessel, vehicular, and rail to determine if a change to the existing schedule of bridge operation will result in a more equitable balance of impacts upon all modes of transportation. This deviation would provide for a twenty-four hour advance notice to the City of Chicago of planned recreational vessel movement and not restrict vessels to particular periods for passage through the bridges, other than during the established and specified periods of rush hour closure periods. The Coast Guard will hold a public hearing concerning this deviation and will review comments, data, and recommendations prior to issuing the deviation.

DATES: The public hearing will be held on Thursday, March 9, 1995 at 7 p.m.

The deviation will be effective from April 15, 1995, through July 14, 1995, unless sooner terminated by the District Commander. Comments on the impacts of the deviation must be received by July 20, 1995.

ADDRESSES: The public hearing will be held at the Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois, Room 331.

Comments on the deviation may be mailed to Mr. Robert Bloom, Chief, Bridge Branch, Ninth Coast Guard

District, 1240 East Ninth Street, Cleveland, Ohio, or may be delivered to room 2083D at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 522-3993. Comments will become part of the public docket and will be available for inspection or copying at room 2083D, at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert W. Bloom, Jr., Bridge Program Manager, Ninth Coast Guard District, (216) 522-3993.

SUPPLEMENTARY INFORMATION:**Public Hearing**

The Commander, Ninth Coast Guard District, has scheduled a public hearing to be held to solicit comments relative to this deviation which will govern the operation of City of Chicago-owned drawbridges across the Chicago River System.

The hearing will provide all concerned parties with the opportunity to present oral and written statements, with supporting data, to the Coast Guard, for evaluation to determine if any revisions are to be made to the deviation prior to its becoming effective on April 15, 1995.

The public hearing will be held on Thursday, March 9, 1995 at 7 p.m. at the Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois, Room 331.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed temporary deviation to regulations, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the person listed in the section **FOR FURTHER INFORMATION CONTACT** in this notice. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public through arrangements with the individual providing the transcription service. Interested persons who are unable to attend this hearing may also participate in this solicitation by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the deviation, and include the name and address of the person or organization submitting the comment. Comments should be sent to the address under **ADDRESSES**.

Request for Comments

The Coast Guard encourages interested persons to submit written data or views concerning the operation of drawbridges during this deviation period. Persons submitting comments should include their names and addresses and identify this notice (CGD09-95-004). Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period.

Drafting Information: The principal persons involved in drafting this document are Robert Bloom, Project Manager, Chief, Bridge Branch, Ninth Coast Guard District, and Commander James Collin, Project Counsel.

Background and Purpose

Following notice and comment rulemaking, the Coast Guard promulgated a final rule on April 18, 1994, establishing a new rule for drawbridge operations on the Chicago River. On September 26, 1994, the United States District Court for the District of Columbia issued an order in the case of *Crowley's Yacht Yard, Inc., Plaintiff, v. Federico Pena, Secretary, United States Department of Transportation, Defendant*, Civil Action Number 94-1152 SSH, rescinding the Final Rule published on April 18, 1994, and reinstating the previous regulations found at 33 CFR 117.391 (1993 Edition). The regulations reinstated by the District Court provided for on-demand openings of drawbridges except during rush hour periods. Further, those regulations contained no requirement for advance notice or the use of specified recreational vessel flotilla size. As a result of the Court decision and to gather data for future use, in the Fall of 1994, the District Commander issued a temporary deviation to regulations for the period October 11, 1994 through December 5, 1994, with a comment period through January 15, 1995. The deviation provided openings of bridges, with a twenty-four hour advance notice to the City of Chicago, from 7 a.m. to 7 p.m. on Saturdays and Sundays, and on Wednesdays between the hours of 6:30 p.m. and 10:00 p.m. throughout the entire period. In addition, from October 11 through October 23 the draws were opened during the period from 10:30 a.m. to 1:30 p.m. on Tuesdays and Thursdays, and from October 23 through December 5 the draws were opened for vessel passage during the

time between 10:30 a.m. and 1:30 p.m. on Wednesdays. Flotilla size was specified.

Discussion of Comments and Changes

At the end of the comment period for the temporary deviation to regulations, the Coast Guard received twenty-one comments. One comment letter, from the City of Chicago, expressed opposition to any permanent regulation for the Spring Breakout in 1995. In response to a request for data, the City stated the data would be provided to the Coast Guard on June 15, 1995. In addition, they proposed one weekday daylight opening and weekend openings. Thirteen of the other twenty comment letters favored not effecting any change to the regulations that are in place now and expressed opposition to establishing minimums and maximums for recreational vessel flotilla sizes that would be allowed to pass through the bridges. Other commenters indicated that if a change is necessary, there should be daylight openings during the weekdays and not restrict openings to strictly nighttime hours from Monday through Friday. These commenters also expressed opposition to establishing a minimum and maximum of boats that would be required for the bridges to be opened. Representatives from the Chicago River boat yards in their comments stated they did not favor a permanent regulation for the Spring Breakout in 1995, but favor the existing regulatory structure.

The District Commander has authorized the temporary deviation to commence on April 15, 1995, and remain in effect for a period of ninety (90) days. This deviation would require that the City open their bridges seven days a week for the passage of recreational vessels only when notice is given twenty-four hours in advance of a vessel's time of intended passage through the draws. However, the bridges subject to this deviation need not open for the passage of recreational vessels from 7:30 a.m. to 10 a.m. and 4 p.m. to 6:30 p.m., Mondays through Fridays. No requirement as to minimum or maximum flotilla size will be imposed. This deviation will facilitate data gathering and scheduling and will support safety while addressing concerns of all parties during the Spring period when most recreational vessels traditionally return to Lake Michigan from winter storage at the Chicago River boat yards. The temporary deviation from the operating requirements at 33 CFR 117.391 governing bridges owned by the City of Chicago over the Chicago River would read as follows:

The bridges affected by this deviation are listed below:

Main Branch

Lake Shore Drive
Columbus Drive
Michigan Avenue
Wabash Avenue
State Street
Dearborn Street
Clark Street
LaSalle Street
Wells Street
Franklin-Orleans Street

South Branch

Lake Street
Randolph Street
Washington Street
Monroe Street
Madison Street
Adams Street
Jackson Boulevard
Van Buren Street
Eisenhower Expressway
Harrison Street
Roosevelt Road
18th Street
Canal Street
South Halsted Street
South Loomis Street
South Ashland Avenue

North Branch

Grand Avenue
Ohio Street
Chicago Avenue
N Halsted Street

This deviation from normal operating regulations is authorized in accordance with the provisions of title 33 of the Code of Federal Regulations, § 117.43, and applies only to the passage of recreational vessels. Under this deviation the bridges listed above operated by the City of Chicago shall operate as follows:

(a) The bridges covered by this deviation need not open for the passage of vessels Mondays through Fridays from 7:30 a.m. to 10 a.m. and 4 p.m. to 6:30 p.m.

(b) At all other times the draws shall open on signal if notice is given twenty-four hours in advance of a vessel's time of intended passage through the draws.

(c) This period of deviation is effective from April 15, 1995 through July 14, 1995.

Dated: February 10, 1995.

Paul J. Pluta,

Captain, U.S. Coast Guard, Commander,
Ninth Coast Guard District, Acting.
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33 CFR Part 161

[CGD09-94-036]

RIN 2115-AF01

Temporary Speed Limits for the St. Marys River; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: This document corrects the temporary final regulations [CGD09-94-036] which were published on Monday, January 23, 1995, (60 FR 4378) concerning the Speed Limits for the St. Marys River.

EFFECTIVE DATE: February 16, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Irene Hoffman, Project Manager, Vessel Traffic Services Division (G-NVT), at (202) 267-6277.

SUPPLEMENTARY INFORMATION:

Background

In accordance with an agreement reached on June 29, 1993, with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources, the Coast Guard may make temporary changes to the speed regulations for periods during the winter season when icebreaking is being conducted in the vicinity of Neebish Island, St. Marys River, Michigan, as a precautionary measure to minimize any possible damage to the environment.

In 59 FR 36324 of July 15, 1994; sections 161.1 through 161.60 of 33 CFR Part 161 were revised. In this document revising Part 161, speed limit regulations for the St. Marys River were placed in 33 CFR Part 162.

On January 23, 1995, a document was published at page 4378 to amend 33 CFR Part 161. This document, intended to address temporary speed limits in the St. Marys River, amended Part 161 by suspending § 161.880 and adding § 161.881. The suspension and addition were effective from December 29, 1994 through April 15, 1995.

Need for Correction

The January 23, 1995, amendments did not make the needed temporary changes to the St. Marys River speed limits. That publication, therefore, needs to be revoked. A new temporary rulemaking addressing the St. Marys River speed limits in 33 CFR 162.117 will be prepared for publication.

For this reason, under the authority of 33 U.S.C. 1231 and 49 CFR 1.46, the suspension of § 161.880 is terminated and § 161.881 is removed.