

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

[CGD07-01-045]

RIN 2115-AE47

**Drawbridge Operation Regulations:  
PGA Boulevard Bridge (ICW), West  
Palm Beach, FL****AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily modifying the regulations governing the operation of the PGA Boulevard Bridge across the Intracoastal Waterway mile 1012.6, West Palm Beach, Palm Beach County, Florida. This temporary rule allows the owner or operator to open only a single bascule leaf of the bridge. This temporary rule is required to allow the bridge owner or operator to safely conduct repairs to the Bridge.

**DATES:** This rule is effective from 12:01 a.m. on May 29 until 11:59 p.m. on September 3, 2001.

**ADDRESSES:** Material received from the public as well as documents indicated in this preamble as being available in the docket are part of docket [CGD07-01-045] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, Florida, 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:****Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) 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 unnecessary and contrary to the public interest. These repairs will have a minimal impact on marine traffic as the bridge will continue to provide single leaf openings and double leaf openings with advance notification.

For the same reason, 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 publication in the **Federal Register**.

**Background and Purpose**

The PGA Boulevard Bridge across the Atlantic Intracoastal Waterway mile 1012.6 at West Palm Beach, Palm Beach

County, Florida, has a vertical clearance of 24.9 feet in the closed position and a horizontal clearance of 90 feet between fender. On March 23, 2001, the Florida Department of Transportation, requested a modification from the current operating regulation in 33 CFR 117.261(s) which requires the drawbridge to open on signal; except that from 7 a.m. to 9 a.m. and 4 p.m. to 7 p.m., Monday through Friday except Federal holidays, the draw need open on the quarter-hour and three-quarter hour. On Saturday, Sundays and Federal holidays from 8 a.m. to 6 p.m. the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. On weekdays except Federal holidays from November 1 thorough April 30 from 9 a.m. to 4 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

Under this temporary rule, from May 28, 2001 until July 16, 2001 and from August 11, 2001 until September 3, 2001, the PGA Boulevard Bridge shall open a single leaf on signal; except that from 7 a.m. to 7 p.m., Monday through Friday except Federal holidays, the draw need open only a single leaf on the quarter-hour and three-quarter hour. A double leaf opening will be available if at least 8 hours notice is provided to the bridge tender. On Saturdays, Sundays and Federal holidays from 8 a.m. to 6 p.m., both draws need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

Due to the removal of gears, this bridge will be able to provide single leaf openings only from July 16, 2001 to August 10, 2001. This rule will be effective until September 3, 2001.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The changes to the bridge's operating schedules will have a minimal affect on navigation. Further, the temporary regulations still allow for scheduled single leaf bridge openings.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard considered whether this rule will have a significant economic effect upon a substantial number of small entities.

"Small entities" include 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 as the regulations allow single leaf opening on a regular basis and double leaf opening with advance notice.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-221), we offer 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 entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. 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 requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

**Federalism**

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that

requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### 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 does not concern an environmental risk to health or safety that may disproportionately affect children.

#### Environment

The Coast Guard has considered the environmental impact of this action and has determined under figure 2-1, paragraph 32(e) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

#### 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.

#### 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; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From 12:01 a.m. on May 29 until 11:59 p.m. on September 3, 2001, in § 117.261, temporarily suspend paragraph (s) and add temporary paragraph (ww) to read as follows:

#### § 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

\* \* \* \* \*

(ww)(1) From May 29, 2001 until July 16, 2001 and from August 11, 2001 until September 3, 2001, the draw of the PGA Boulevard Bridge shall open a single leaf on signal; except that from 7 a.m. to 7 p.m., Monday through Friday except Federal holidays, the draw need open only a single leaf on the quarter-hour and three-quarter hour. A double leaf opening will be available if at least 8 hours notice is provided to the bridge tender.

On Saturdays, Sundays and Federal holidays from 8 a.m. to 6 p.m., both draws need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. The draw shall open as soon as possible for the passage of public vessels of the United States and vessels in distress.

(2) From July 16 to August 10, 2001, the draw of the PGA Boulevard Bridge will only provide single leaf openings on the quarter hour and three-quarter hour.

Dated: May 29, 2001.

**T.W. Allen,**

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

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**BILLING CODE 4910-15-U**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD09-01-008]

RIN-2115-AE47

#### Drawbridge Operation Regulations; Cheboygan River, MI

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the operating regulation governing the U.S. 23 bridge at mile 0.9 over Cheboygan River in Cheboygan, Michigan. This rule revises the advance notice requirement for vessels during winter months. Vessels are required to provide 12-hour advance notice between December 15 and March 31 each year.

**DATES:** This rule is effective July 18, 2001.

**ADDRESSES:** Comments and material received from the public, as well as all material in the docket CGD09-01-008, are available for inspection or copying at the office of Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199-2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 902-6084.

**FOR FURTHER INFORMATION CONTACT:** Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District Bridge Branch, at (216) 902-6084.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On March 28, 2001, the Coast Guard published a notice of proposed rulemaking (NPRM) concerning the drawbridge regulation in the **Federal Register** (66 FR 16895). We received no comments concerning the proposed rule. No public hearing was requested and none was held.

#### Background and Purpose

The owner of the U.S. 23 bridge, Michigan Department of Transportation (MDOT), requested the Coast Guard approve a modified schedule for the winter operations of the bridge. The current regulation contained in 33 CFR 117.627 requires the bridge to open if at least 24 hours notice is provided between December 15 and March 15 each year. Records submitted by MDOT showed no requested bridge openings between March 15 and April 1 in 1998, 1999, and 2000. We determined that it would be reasonable to revise the date in spring that the bridge is required to be manned from March 15 to March 31. However, the 24-hour advance notice requirement was determined to be inconsistent with standard times in the Great Lakes and would not serve the reasonable needs of known navigation. Therefore, the revised schedule was developed to reflect the established times of need for vessels and provide an advance notice requirement that is consistent with seamanship practices on the Great Lakes. The revised schedule will require vessels provide at least 12-hours advance notice prior to intended time of passing between December 15 and March 31. The current regulation requires the bridge to open as soon as possible at all times for commercial vessels and vessels used for public safety. There is no revision to that requirement in this rule. This schedule is believed to provide a reasonable balance between the needs of the owner of the bridge to eliminate costs for tender service during periods of no