

April 2, 2004 through 4 p.m. on April 4, 2004.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: February 17, 2004.

**John L. Grenier,**

*Captain, U.S. Coast Guard, Acting  
Commander, First Coast Guard District.*

[FR Doc. 04-4491 Filed 2-27-04; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07-03-072]

RIN 1625-AA09

#### **Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Boca Grande, Charlotte County, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating regulations and the name of the Gasparilla Island Causeway Bridge, across the Gulf Intracoastal Waterway, mile 34.3, in Boca Grande, Florida. This rule requires the bridge to open only two times an hour during the weekdays and four times an hour during certain times on the weekends and Federal holidays. This action will improve vehicular traffic movement, while not unreasonably interfering with navigation.

**DATES:** This rule is effective March 31, 2004.

**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 [CGD07-03-072] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Project Manager, Seventh Coast Guard District, Bridge Branch, (305) 415-6743.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

On July 17, 2003, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Boca Grande, Charlotte County, Florida in the **Federal Register** (68 FR 42331). We received 10 comments on this NPRM. No public hearing was requested, and none was held.

##### **Background and Purpose**

The Gasparilla Island Bridge Authority requested a change in the regulations governing the operation and the name of the Gasparilla Island Causeway Bridge. This is a swingbridge with a vertical clearance of 9 feet at mean high water and a horizontal clearance of 81 feet. The existing regulation for this bridge is published in 33 CFR 117.287(a-1), and requires the bridge to open on signal; except that from January 1 to May 31, from 7 a.m. to 5 p.m., the bridge need open only on the hour, quarter hour, half hour and three quarter hour. The owner requested a change to the bridge operating schedule so that the bridge would open on signal, except that from 7 a.m. to 6 p.m., Monday through Friday, except Federal holidays, the bridge need open only on the hour and half hour, and, from 7 a.m. to 6 p.m. on weekends and Federal holidays, the bridge need open only on the hour, quarter hour, half hour and three quarter hour. Tugs with tows, public vessels of the United States and vessels in distress shall pass at any time. This regulation will ease vehicular traffic congestion while providing for the reasonable needs of navigation. The bridge currently opens less than two times per hour on both weekends and weekdays.

In addition, the owner requested that the name of the bridge be changed to the Boca Grande Swingbridge, as it is locally known. The local name is more descriptive of the bridge's swingbridge design.

##### **Discussion of Comments and Changes**

We received 10 comments on the NPRM, 6 from the same company against the rule change, citing that the period of closure was too long for their vessels to wait and 4 from residents of Boca Grande in favor of the rule change.

We have carefully considered the comments and decided not to change the proposed rule. The bridge currently opens less than twice an hour, and vessels transiting the area have ample opportunity to adjust to the operating schedule. Additionally, there are numerous, sufficient safe waiting areas in the vicinity.

##### **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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The rule only affects a small percentage of vessel traffic through this bridge and provides approximately the same amount of openings that the bridge's current activity level exhibits.

##### **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 may affect the following entities, some of which might be small entities: the owners or operators of vessels and vehicles intending to transit under and over the Gasparilla Bridge during the hours of 7 a.m. to 6 p.m., Monday through Friday, except Federal holidays, and 7 a.m. to 6 p.m., weekends and Federal holidays. The rule only affects a small percentage of vessel traffic through this bridge and provides approximately the same amount of openings that the bridge's current activity level exhibits.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking process. The Coast Guard offered small businesses, organizations, or governmental jurisdictions having questions concerning the rule's provisions or options for compliance, to 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 will 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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. Section 117.287(a√1) is revised to read as follows:

#### § 117.287 Gulf Intracoastal Waterway.

\* \* \* \* \*

(a-1) The draw of the Boca Grande Swingbridge, mile 34.3, shall open on signal; except that, from 7 a.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need open only on the hour and half hour. On Saturday, Sunday and Federal holidays, from 7 a.m. to 6 p.m., the draw need open only on the hour, quarter hour, half hour and three quarter hour.

\* \* \* \* \*

Dated: February 13, 2004.

**Harvey E. Johnson, Jr.,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD01-04-007]

#### Drawbridge Operation Regulations; Passaic River, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations that govern the Route 280 (Stickel) Bridge, at mile 5.8, across the Passaic River at Harrison, New Jersey. This temporary deviation will allow the bridge to remain in the closed position from 8 a.m. to 4 p.m. on March 1, 2004. This action is necessary to facilitate scheduled maintenance at the bridge.

**DATES:** This deviation is effective from 8 a.m. to 4 p.m. on March 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Project Officer, First Coast Guard District, (212) 668-7165.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

The Route 280 (Stickel) Bridge has a vertical clearance of 35 feet at mean high water and 40 feet at mean low water. The existing regulations listed at 33 CFR 117.739(h), require the draw to open on signal after at least a twenty four hour advance notice is given.

The bridge owner, the New Jersey Department of Transportation, requested a temporary deviation from the