

The draw shall open on the quarter-hour and three-quarter hour.

Dated: August 2, 2005.

**D.B. Peterman,**

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

[FR Doc. 05-16180 Filed 8-15-05; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07-05-097]

**RIN 1625-AA09**

#### **Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Anna Maria, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the operating regulations governing the Cortez (SR 684) bridge and the Anna Maria (SR 64) bridge across the Gulf Intracoastal Waterway, mile 89.2 in Anna Maria, Manatee County, Florida. This proposed rule would require the drawbridges to open on a 30-minute schedule if vessels are present. However, the drawbridges are not required to open during the morning and afternoon rush hours. This proposed action may improve the movement of vehicular traffic while not unreasonably interfering with the movement of vessel traffic.

**DATES:** Comments and related material must reach the Coast Guard on or before October 17, 2005.

**ADDRESSES:** You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL, 33131, who maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and are available for inspection or copying at the Seventh Coast Guard District Bridge Branch, 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 (CGD07-05-097), 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. We may change this proposed rule in view of them.

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Seventh Coast Guard District Bridge Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Background and Purpose

The existing regulations of the Cortez (SR 684) bridge, mile 87.4, and Anna Maria (SR 64) bridge, mile 89.2 at Anna Maria, published in 33 CFR 117.287(d)(1) and (2) require the draw to open on signal, except that from 7 a.m. to 6 p.m., the draw need open only on the hour, twenty minutes past the hour and forty minutes past the hour if vessels are present.

On June 1, 2005, the City officials of Holmes Beach in cooperation with the cities of Anna Maria and Bradenton Beach and the Town of Longboat Key requested that the Coast Guard review the existing regulations governing the operation of the Cortez and Anna Maria bridges, because they think the current drawbridge regulations are not meeting the needs of vehicle traffic.

### Discussion of Proposed Rule

This proposed rule would require the Cortez (SR 684) and Anna Maria (SR 64) bridges, miles 87.4 and 89.2, at Anna Maria to open on the hour and half-hour if vessels are present, except that the draws need not open from 7:35 a.m. to 8:29 a.m. and from 4:35 p.m. to 5:29 p.m. The objective of this revision is to improve vehicle traffic flow on SR 684 and SR 64, especially during peak periods of increased road congestion.

### Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This proposed rule would revise the existing bridge schedule to allow for improved vehicle traffic flow, while still providing ample scheduled openings for vessel traffic.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small business, 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: The owners or operators of vessels needing to transit the Intracoastal Waterway in the vicinity of the Cortez and Anna Maria bridges, persons intending to drive over the bridge, and nearby business owners. The revision to the openings schedule would not have a significant impact on a substantial number of small entities for the following reasons. 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 Cortez and Anna Maria bridges pursuant to the revised openings schedule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it,

please submit a comment to the Seventh Coast Guard District Bridge Branch at the address under **ADDRESSES** explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the 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 under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This proposed rule would call 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 proposed 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 proposed 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 proposed rule would 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 proposed 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed 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 proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.287(d)(1) and (2) to read as follows:

#### § 117.287 Gulf Intracoastal Waterway.

\* \* \* \* \*

(d)(1) The draw of the Cortez (SR 684) bridge, mile 87.4, need open only on the hour and half-hour; except that from 7:35 a.m. to 8:29 a.m. and 4:35 p.m. and 5:29 p.m. the draw need not open.

(2) The draw of the Anna Maria (SR 64) bridge, mile 89.2, need open only on the hour and half-hour; except that from 7:35 a.m. to 8:29 a.m. and 4:35 p.m. to 5:29 p.m. the draw need not open.

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Dated: August 3, 2005.

**D.B. Peterman,**

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

[FR Doc. 05–16229 Filed 8–15–05; 8:45 am]

**BILLING CODE 4910–15–P**