

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

[CGD07-00-006]

RIN 2115-AE47

**Drawbridge Operation Regulations:
Longboat Pass and New Pass,
Longboat Key, Florida**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations governing the operation of the Longboat Pass Bridge across Longboat Pass, Manatee County, Longboat Key, Florida and changing the regulations governing the operation of the New Pass Bridge, Sarasota County, Longboat Key, Florida. These changes will decrease vehicle and vessel traffic congestion. The removal and change are due to the increased vessel traffic at the Longboat Pass Bridge and the decreased vessel traffic at the New Pass Bridge.

DATES: This rule is effective January 17, 2002.

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 [CGD07-00-006] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Room 406, 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 Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415-6743.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On August 25, 2000 we published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Longboat Pass and New Pass, Longboat Key, FL, in the **Federal Register** (65 FR 51787). On December 7, 2000 we published a notice of proposed rulemaking reopening the comment period for an additional 60 days, entitled Drawbridge Operation Regulations; Longboat Pass and New Pass, Longboat Key, FL, in the **Federal Register** (65 FR 76956).

Background and Purpose

Based on the increased vessel traffic through Longboat Pass Bridge and the decreased vessel traffic through New Pass Bridge, the Coast Guard is changing the operating regulations for these two

Bridges to provide a safer and more efficient transit for vehicles and vessels near Longboat Key. The current regulation governing Longboat Pass Bridge (SR 789), mile 0.0, between Longboat Key and Anna Maria Key, codified in 33 CFR 117.299 states that the draw shall open on signal, except that from 6 p.m. to 6 a.m., the draw will open on signal if at least 3 hours notice is given. This rule removes the operating regulations in 33 CFR 117.299 and requires the draw to open on signal in accordance with the general bridge operation provision in 33 CFR 117.5.

Due to the number of comments from motor vehicle drivers concerning the proposed New Pass Bridge regulation, we are keeping the existing part of the regulation in 33 CFR 117.311 which states that the Bridge shall open on signal except 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. The change to the rule allows the Bridge to open on signal between 6 p.m. and 7 a.m. if at least 3 hours of notice is given to the bridge tender.

Public vessels of the United States, tugs with tows and vessels in a situation where a delay would endanger life or property will, upon proper signal, be passed through both bridges at any time.

Discussion of Comments and Changes

The Coast Guard received seventy-three comment letters addressing the notice of proposed rulemaking. Sixty-one of the letters disagreed with the proposed rule changes. The comments indicated that the proposed changes would create a burden for vehicular traffic. The collected data indicates that the New Pass Bridge currently opens approximately 3 to 4 times per day, due to the extreme hazards involved with transiting through New Pass to the Gulf of Mexico. As a result of these conditions, vessel traffic through New Pass at night is sparse. To alleviate the concerns expressed in these comments, we decided to keep the current regulations in 33 CFR 117.311 governing the New Pass Bridge and add to the regulation a provision that the bridge will open on signal from 6 p.m. to 7 a.m. if at least 3 hours notice is given to the bridge tender.

Eighteen of these comments also requested a new daytime rule on the Longboat Pass Bridge. We forwarded these comments to the Bridge owner/operator, Florida Department of Transportation, to research and address the feasibility of a new daytime rule.

Twelve comments agreed with the rule change. The comment letters, all from the boating public, acknowledged

the navigational hazards at New Pass including the difficulties involved in nighttime access into and out of the Gulf of Mexico. The comments indicated the preferred route into and out of the Gulf of Mexico has changed over the years from New Pass to Longboat Pass. The current collected data corroborates these comments by showing a decrease in vessel traffic at New Pass and the increase in vessel traffic at Longboat Pass. We are adopting, without change, the proposal placing the Longboat Pass Bridge on a twenty-four hour, open on signal, operation schedule.

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 Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because the rule allows the Longboat Pass Bridge to open on signal and will only slightly modify the existing operating schedule for the New Pass Bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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.

This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit under the Longboat Pass and New Pass Bridges. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because the rule allows the Longboat Pass Bridge to open on signal and will only slightly modify the existing operating schedule for the New Pass Bridge.

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 the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 this 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 does not create an environmental risk to health or risk to 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 M16475.1D, 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.

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.

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).

2. Section 117.311 is revised to read as follows:

§ 117.311 New Pass

The draw of the State Road 789 bridge, mile 0.05, at Sarasota, need only open on the hour, twenty minutes past the hour, and forty minutes past the hour from 7 a.m. to 6 p.m. From 6 p.m. to 7 a.m., the draw shall open on signal if at least 3 hours notice is given to the bridge tender. Public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property shall, upon proper signal, be passed at any time.

§ 117.299 Longboat Pass (Removed)

Remove § 117.299.

Dated: December 1, 2001.

James S. Carmichael,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-01-206]

RIN 2115-AA97

Security Zone: Maine Yankee Nuclear Power Plant, Wiscasset, Maine

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around the Maine Yankee Power Plant in Wiscasset, Maine, temporarily closing all land and waters surrounding Bailey Point and Foxbird Island. This security zone prohibits entry into or movement within a portion of the Back River and adjacent land areas and is needed to ensure public safety and prevent sabotage or terrorist acts. Entry into this security zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

DATES: This rule is effective from December 10, 2001 until June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the