



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2015-0046]

RIN 1625-AA09

Drawbridge Operation Regulation; Snake Creek, Islamorada, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Snake Creek Bridge across Snake Creek, Islamorada, FL. This temporary interim rule will change the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This temporary interim rule will allow Snake Creek Bridge to open on signal, except that from 8 a.m. to 6 p.m., the draw need open only on the hour. The Bridge owner, Florida Department of Transportation, and local officials requested this action to assist in reducing vehicle traffic caused by frequent bridge openings.

DATES: This temporary interim rule will be effective from 8 a.m. on [Insert date of publication in Federal Register] to 6

p.m. on May 10, 2016.

Comments and related material must reach the Coast Guard on or before January 15, 2016. Requests for public meetings must be received by the Coast Guard on or before November 1, 2015.

ADDRESSES: You may submit comments identified by docket number USCG-2015-0046 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments. To avoid duplication, please use only one of these methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary interim rule, call or e-mail Coast Guard Sector Key West Waterways Management Division; telephone 305-292-8772, e-mail D07-DG-SECKW-WaterwaysManagement@uscg.mil. If

you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
§	Section Symbol
U.S.C.	United States Code

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2015-0046), indicate the specific section of this document to which each comment applies, and give the reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it

will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2015-0046] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2015-

0046) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before November 1, 2015, using one of the methods specified under ADDRESSES. Please explain 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.

Regulatory History and Information

On March 27, 2015, we published a test deviation entitled

"Drawbridge Operation Regulations; Snake Creek, Islamorada, FL" in the Federal Register (80 FR 16280). The comment period for the test deviation remains open until September 14, 2015.

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because delaying an amendment to the Snake Creek Bridge schedule would be impracticable and contrary to public interest. Pursuant to the temporary deviation published on March 27, 2015, the Snake Creek Bridge operating schedule was modified to determine if vehicular traffic congestion could be reduced while accommodating the reasonable needs of navigation. While the comment period for that deviation remains open, the Coast Guard is implementing this rule and seeks additional comment because the test deviation did not offer insight on the impacts of an alternate operating schedule during fall or winter months. Preliminary evidence shows that the revised

schedule is beneficial to the commuting public and reverting to the schedule published in 33 CFR 117.331 may not be necessary to provide for the reasonable needs of navigation on Snake Creek.

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 for the same reasons discussed above.

B. Basis and Purpose

The Snake Creek Bridge in Islamorada, Florida has a vertical clearance of 27 feet in the closed position. The normal operating schedule as published in 33 CFR 117.331 is as follows: The draw of the Snake Creek Bridge, at Islamorada, Florida, shall open on signal, except that from 8 a.m. to 4 p.m., the draw need open only on the hour and half-hour. This schedule has been in effect since 2001.

The Bridge owner, Florida Department of Transportation, and local officials requested a change in the operating schedule to assist in reducing vehicle traffic caused by frequent bridge openings.

The Coast Guard initiated a test of a new schedule for the Snake Creek Bridge that was based on the following input:

1. As reported by village and city councils, vehicle traffic near the Snake Creek Bridge has negatively impacted

Islamorada and surrounding communities during peak vehicle traffic time periods. A temporary deviation initiated a test of a new bridge operation schedule to reduce vehicle traffic caused by bridge openings.

2. On January 8-10, 2013, the Florida Department of Transportation conducted a traffic monitoring study 1400 feet south of the Snake Creek Bridge on US-1. The study found peak traffic volumes occurring at 8:45 a.m. and between 12:15 p.m. and 3:15 p.m. By reducing the number of scheduled openings between 8 a.m. and 6 p.m., this rule seeks to reduce vehicle traffic on US-1 while maintaining the reasonable needs of navigation on Snake Creek.

The types of vessels navigating Snake Creek include sport fishing vessels and catamaran sailboats.

During the test deviation, vessels signaled the bridge to open on the top of the hour from 8 a.m. to 6 p.m.

Any vessel that can safely transit under the Snake Creek Bridge while closed may continue to navigate under the bridge during this deviation.

Vessel operators may also consider the use of Channel Five, a navigable channel above Long Key, Florida 5.7 nautical miles southwest of Snake Creek Bridge. The fixed US-1 bridge across Channel Five has a vertical clearance of 65 feet.

C. Discussion of the Temporary Interim Rule

A test deviation published on March 27, 2015 allowed the Snake Creek Bridge to remain closed with the exception of on-demand openings once an hour schedule between 8 a.m. and 6 p.m. seven days a week. The deviation called for on-demand openings at all other times. The Coast Guard is initiating this temporary interim rule to allow the time necessary to review the impacts of the test schedule and how it will impact all modes of traffic during seasonal traffic.

Comments on the temporary deviation as well as any others received during the temporary interim rule comment period may be used to determine if a final rule should be implemented to modify the operating schedule.

D. Regulatory Analyses

We developed this temporary interim rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section

6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule is not a significant regulatory action because it allows for openings every hour and meets the reasonable needs of navigation while helping to decongest vehicular traffic on US-1. Vessels capable of transiting under the Bridge may do so at any time.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 action will not have a significant economic impact on a substantial number of small entities because it will allow for once an hour openings and vessels that can safely transit under the bridge may do so at any time.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. 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 in the FOR FURTHER INFORMATION CONTACT, above.

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). 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.

4. 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).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect

on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. 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 (adjusted for inflation) 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. 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.

10. 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 might disproportionately affect children.

11. 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.

12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and 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 made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32) (e), of the Instruction.

Under figure 2-1, paragraph (32) (e), of the Instruction, an environmental analysis checklist 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; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Effective 8 a.m. on [insert date of publication in the Federal Register] to 6 p.m. on May 10, 2016, suspend §117.331 and add §117.T331 to read as follows:

§117.T331 Snake Creek.

The draw of the Snake Creek Bridge, at Islamorada, Florida will open on signal, except that from 8 a.m. to 6 p.m., the draw need open only on the hour.

Dated: September 8, 2015

S. A. BUSCHMAN,

Rear Admiral, U.S. Coast Guard,

Commander, Seventh Coast Guard District.

[FR Doc. 2015-23537 Filed: 9/17/2015 08:45 am;

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