



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0652]

RIN 1625-AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, at Jupiter, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily modify the operating schedule that governs the Indiantown Road Bridge across the Atlantic Intracoastal Waterway (AICW), mile 1006.2, at Jupiter, Florida. This action is necessary to alleviate vehicle traffic congestion on the Indiantown Road Bridge caused by the replacement and closure of a nearby bridge. Once construction of the nearby bridge has been completed, the Indiantown Road Drawbridge will return to normally scheduled operations. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Coast Guard anticipates that this proposed rule will be effective from 12:01 a.m. on December 30, 2023, through 11:59 p.m. on August 31, 2025.

ADDRESSES: You may submit comments identified by docket number USCG-2023-0652 using Federal Decision Making Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Leonard Newsom, Seventh District Bridge Branch, Coast Guard; telephone (305) 415-6946, e-mail Leonard.D.Newsom@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code
FL	Florida
AICW	Atlantic Intracoastal Waterway
FDOT	Florida Department of Transportation

II. Background, Purpose and Legal Basis

Indiantown Road Bridge across the Atlantic Intracoastal Waterway (AICW), mile 1006.2, at Jupiter, Florida, is a double-leaf bascule bridge with 35 feet of vertical clearance in the closed position. The normal operating schedule for the bridge is set forth in 33 CFR 117.261(q). Navigation on the waterway consists of recreational and commercial mariners.

The bridge owner, Florida Department of Transportation (FDOT), requested the Coast Guard consider allowing this change during the replacement and closure of a nearby bridge. The closing of the nearby bridge has resulted in significant increase in vehicle traffic congestion of the area. The only alternate route for land traffic to access the mainland is via the Donald Ross Bridge approximately 4.5 miles south of the Indiantown Road Bridge. This proposed temporary rule will reduce the number of

drawbridge openings which will subsequently allow local vehicle traffic to flow with reduced obstructions and delays.

III. Discussion of Proposed Rule

The proposed temporary rule will allow the drawbridge to remain closed to navigation during weekday vehicle commuting hours. Under this proposed temporary rule, the drawbridge would remain closed to vessel traffic daily from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. At all other times the bridge would open on the hour and half hour. Vessels that can pass beneath the bridge without an opening may do so at any time.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that vessels can still transit the bridge at designated times throughout the day, and vessels that can transit under the bridge without an opening may do so at any time. This proposed temporary rule will further meet the reasonable needs of navigation while taking into consideration the reasonable needs of vehicular traffic. .

B. 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

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 (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule. If the proposed 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 section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. 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.).

D. Federalism and Indian Tribal Governments

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 proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management

Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2023-0652 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER**

INFORMATION CONTACT section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted, or a temporary final rule is published of any posting or updates to the docket.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

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; DHS Delegation No. 00170.1.

Revision No.01.3

2. Stay §117.261(q) from 12:01 a.m. on December 30, 2023, through 11:59 p.m. on August 31, 2025.

3. Add temporary §117.261(p) from 12:01 a.m. on December 30, 2023, through 11:59 p.m. on August 31, 2025, to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo

(p) Indiantown Road Bridge, mile 1006.2, at Jupiter. The draw shall open on the hour and half hour except that the draw need not open daily from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.

Dated: October 13, 2023.

Douglas M. Schofield,

Rear Admiral, U.S. Coast Guard,

Commander, Coast Guard Seventh District.

[FR Doc. 2023-23259 Filed: 10/19/2023 8:45 am; Publication Date: 10/20/2023]