

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG–2019–0508]

RIN 1625–AA08

#### Special Local Regulation; Battle of the Bridges, Intracoastal Waterway; Venice, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary special local regulation for certain waters of the Intracoastal Waterway. This action is necessary to provide for the safety of life on these navigable waters in Venice, FL, during the Battle of the Bridges on September 28, 2019. This proposed rulemaking would prohibit persons and vessels from being in the race area unless authorized by the Captain of the Port St. Petersburg (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before September 3, 2019.

**ADDRESSES:** You may submit comments identified by docket number USCG–2019–0508 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Marine Science Technician First Class Michael Shackelford, U.S. Coast Guard; telephone 813–228–2191, email [Michael.D.Shackelford@uscg.mil](mailto:Michael.D.Shackelford@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

##### **II. Background, Purpose, and Legal Basis**

On February 2, 2019, the Sarasota Scullers Youth Rowing Program notified the Coast Guard that it would be conducting the Battle of the Bridges sculler race from 6 a.m. to 6 p.m. on

September 28, 2019. The race will take place on portions of the Intracoastal Waterway in Venice, FL. The Captain of the Port St. Petersburg (COTP) has determined potential hazards associated with the race to be a safety concern for anyone within area where the race is taking place.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the regulated area during the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

##### **III. Discussion of Proposed Rule**

The COTP proposes to establish a temporary special local regulation from 6 a.m. to 6 p.m. on September 28, 2019. The regulation would cover a race, which would take place on approximately 3.5 miles of the Intracoastal Waterway starting near the Shamrock Park and Nature Center and ending near the Tamiami Trail Bridge in Venice, FL. The duration of the regulation is intended to ensure the safety of vessels and these navigable waters during the scheduled race. No vessel or person would be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. Persons or vessels receiving permission to enter the regulated area must comply with the instructions of the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

##### **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 a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

###### *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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. This regulation would impact approximately 3.5 miles of the Intracoastal Waterway in Venice, FL for twelve hours on one day. The Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the regulation, and the rule would allow vessels to seek permission to enter the race area. Advance notice of the regulation will be provide the local community with ample time to plan around the race event accordingly.

###### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 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 regulation area 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 (Pub. L. 104–121), we want to assist small entities in understanding this proposed 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** 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 not call for a 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 involves a special local regulation, which temporarily limits access to the portions of the Intracoastal Waterway in

Venice, FL to race participants for twelve hours on one day. Normally such actions are categorically excluded from further review under paragraph L(61) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### *G. 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.

#### **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.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. 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.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

#### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.35T07–0508 to read as follows:

#### **§ 100.35T07–0508 Special Local Regulation; Battle of the Bridges, Intracoastal Waterway; Venice, FL.**

(a) *Regulated Area.* A regulated area is established to include a race area located on all waters of the Intracoastal Waterway south of a line made connecting the following points: 27°06'15" N, 082°26'43" W, to position 27°06'12" N, 082°26'43" W, and all waters of the Intracoastal Waterway north of a line made connecting the following points: 27°03'21" N, 082°26'17" W, to position 27°03'19" N, 082°26'15" W. All coordinates are North American Datum 1983.

(b) *Definitions.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP St. Petersburg in the enforcement of the regulated areas.

(c) *Regulations.*

(1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area unless authorized by the Captain of the Port (COTP) St. Petersburg or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the race area may contact the COTP St. Petersburg by telephone at (727) 824–7506 or via VHF–FM radio Channel 16 to request authorization.

(3) If authorization to enter, transit through, anchor in, or remain within the race area is granted, all persons and vessels receiving such authorization shall comply with the instructions of the COTP or a designated representative.

(4) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

(d) *Enforcement Period.* This rule will be enforced from 6 a.m. until 6 p.m. on September 28, 2019.

Dated: July 23, 2019.

**Matthew A. Thompson,**

*Captain, U.S. Coast Guard, Captain of the Port Saint Petersburg.*

[FR Doc. 2019-16543 Filed 8-1-19; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2018-0729]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Fort Pierce, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the A1A North Causeway Bridge across the Atlantic Intracoastal Waterway (AICW), mile 964.8 at Fort Pierce, St Lucie County, FL. This proposed action would eliminate the on-demand drawbridge openings. This proposed action is intended to reduce vehicular traffic congestion and provide scheduled openings for the bridge.

**DATES:** Comments and related material must reach the Coast Guard on or before September 3, 2019.

**ADDRESSES:** You may submit comments identified by docket number USCG-2018-0729 using Federal e-Rulemaking Portal at <http://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 email LT Samuel Rodriguez-Gonzalez, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 305-535-4307, email [Samuel.Rodriguez-Gonzalez@uscg.mil](mailto:Samuel.Rodriguez-Gonzalez@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 OMB Office of Management and Budget  
 NPRM Notice of Proposed Rulemaking  
 (Advance, Supplemental)  
 § Section  
 U.S.C. United States Code

AICW Atlantic Intracoastal Waterway  
 FL Florida  
 FDOT Florida Department of Transportation

##### **II. Background, Purpose and Legal Basis**

The Florida Department of Transportation (FDOT), who owns and operates the A1A North Causeway Bridge, has requested a rule to allow for scheduled drawbridge openings. There has been an increase in vehicular traffic over the bridge in recent years due to residential development along the beach.

The existing A1A North Causeway Bridge across the AICW, mile 964.8 in Fort Pierce, St Lucie County, FL is a bascule bridge. It has a vertical clearance of 26 feet at mean high water in the closed position and a horizontal clearance of 90 feet. The bridge currently operates under 33 CFR 117.5.

On August 30, 2018, the Coast Guard published a Test Deviation entitled Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Fort Pierce, FL in the **Federal Register** (83 FR 44233). We received 113 comments.

During the test, the majority of comments received were in support of scheduled openings. However, most felt that the bridge was still opening too frequently. A review of the bridge tender logs did not support the claim that the bridge was opening too frequently. The logs did show, however, that openings tended to be twice per hour as opposed to three times per hour. In addition, the majority of comments recommended scheduled openings during the evening and on weekends.

In response to all of the comments from the original Test Deviation, on March 21, 2019, the Coast Guard published an alternate Test Deviation entitled Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Fort Pierce, FL in the **Federal Register** (84 FR 10411). This test deviation was issued to determine if an alternate operating schedule to the previous test deviation is appropriate to better balance the needs of marine and vehicle traffic. We received 33 comments.

During this test, all comments were in favor of the alternate operating schedule that included around the clock scheduled weekday and weekend openings.

##### **III. Discussion of Proposed Rule**

The proposed rule will allow the drawbridge to be placed on a regular operating schedule. Under this proposed regulation, the draw of the A1A North Causeway Bridge would open on the hour and half-hour.

This proposed change would still allow vessels that can transit under the bridge, without an opening, to do so at any time while taking into account the reasonable needs of other modes of transportation. Vessels in distress, public vessels of the United States, and tugs with tows must be passed 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 and we discuss First Amendment rights of protestors.

###### *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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the ability that vessels can still transit the bridge twice an hour, and vessels that can transit under the bridge without an opening may do so at any time. Vessels in distress, public vessels of the United States and tugs with tows will be allowed to pass at any time.

###### *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