

Background and Purpose

On January 3, 2002, the City of Fort Lauderdale requested that the Coast Guard review the existing regulation of the Commercial Boulevard bridge (SR 870) because the City believed the existing regulations were not meeting the needs of vehicle traffic.

The existing regulation of the Commercial Boulevard bridge (SR 870), mile 1059.0, at Lauderdale-by-the-Sea, published in 33 CFR 117.261(ee), requires the draws to open on signal, except that, from November 1 through May 15, from 8 a.m. to 6 p.m., Monday through Friday, the draws need open only on the hour, quarter-hour, half-hour, and three-quarter-hour, and from 8 a.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draws need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

This proposed rule would make the seasonal openings effective year round. Traffic studies have shown that vehicular traffic has increased at this location year round and a seasonal schedule is no longer appropriate.

On March 18, 2002, the Coast Guard issued a temporary deviation published in the **Federal Register** (67 FR 11919, March 18, 2002). This deviation was effective from April 17, 2002 until July 16, 2002, and from 7 a.m. to 6 p.m., allowed the bridge to open on the hour, 20 minutes after the hour, and 40 minutes after the hour. We received 38 comments on this deviation, 31 were in favor of the 20-minute schedule and seven comments requested that the schedule be changed to an hour and half-hour schedule. Based on our evaluation of the comments received and neighboring bridge schedules, the Coast Guard proposes to make the 20-minute schedule permanent. A 20-minute schedule is necessary to keep vessel traffic on the waterway moving because the bridge immediately to the north of this bridge is on a 30-minute schedule and the bridge immediately to the south of this bridge is on a 20-minute schedule. If this bridge were placed on a 30-minute schedule, vessels would experience a greater delay in traversing the waterway.

Discussion of Proposed Rule

This proposed rule would require the Commercial Boulevard bridge (SR 870), mile 1059.0, at Lauderdale-by-the-Sea, to open on signal; except that, from 7 a.m. to 6 p.m. daily, the draws need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under

section 3(f) of Executive Order 12866 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because this proposed rule only slightly modifies the existing bridge schedule and still provides for regular openings.

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 effect upon 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.

This proposed rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Intracoastal Waterway in the vicinity of Commercial Boulevard bridge, persons intending to drive over the bridge, and nearby business owners. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities, because this proposed rule would only slightly modify the existing schedule and would still provide for regular openings.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would economically effect 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 this proposed rule would affect your small business, organization, or

governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**. We also have a point of contact for commenting on actions by employees of the Coast Guard. 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. 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 proposed rule calls for no new collection of information requirements 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 this rule 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 an 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. Although 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 will 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,