

§ 113.2 [Corrected]

3. The heading for § 113.2 is revised to read "Applicability".

Dated: February 10, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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

[CGD09-95-004]

Drawbridge Operation Regulations; Chicago River, IL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation and public hearing; request for comments.

SUMMARY: The Commander, Ninth Coast Guard District, has authorized a 90-day deviation from the operation regulations for the draws of City of Chicago-owned bridges over the Chicago River, Illinois. The deviation is being authorized to solicit comments, data, and recommendations concerning impacts upon the various modes of transportation, to include vessel, vehicular, and rail to determine if a change to the existing schedule of bridge operation will result in a more equitable balance of impacts upon all modes of transportation. This deviation would provide for a twenty-four hour advance notice to the City of Chicago of planned recreational vessel movement and not restrict vessels to particular periods for passage through the bridges, other than during the established and specified periods of rush hour closure periods. The Coast Guard will hold a public hearing concerning this deviation and will review comments, data, and recommendations prior to issuing the deviation.

DATES: The public hearing will be held on Thursday, March 9, 1995 at 7 p.m.

The deviation will be effective from April 15, 1995, through July 14, 1995, unless sooner terminated by the District Commander. Comments on the impacts of the deviation must be received by July 20, 1995.

ADDRESSES: The public hearing will be held at the Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois, Room 331.

Comments on the deviation may be mailed to Mr. Robert Bloom, Chief, Bridge Branch, Ninth Coast Guard

District, 1240 East Ninth Street, Cleveland, Ohio, or may be delivered to room 2083D at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 522-3993. Comments will become part of the public docket and will be available for inspection or copying at room 2083D, at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert W. Bloom, Jr., Bridge Program Manager, Ninth Coast Guard District, (216) 522-3993.

SUPPLEMENTARY INFORMATION:**Public Hearing**

The Commander, Ninth Coast Guard District, has scheduled a public hearing to be held to solicit comments relative to this deviation which will govern the operation of City of Chicago-owned drawbridges across the Chicago River System.

The hearing will provide all concerned parties with the opportunity to present oral and written statements, with supporting data, to the Coast Guard, for evaluation to determine if any revisions are to be made to the deviation prior to its becoming effective on April 15, 1995.

The public hearing will be held on Thursday, March 9, 1995 at 7 p.m. at the Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois, Room 331.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed temporary deviation to regulations, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the person listed in the section **FOR FURTHER INFORMATION CONTACT** in this notice. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public through arrangements with the individual providing the transcription service. Interested persons who are unable to attend this hearing may also participate in this solicitation by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the deviation, and include the name and address of the person or organization submitting the comment. Comments should be sent to the address under **ADDRESSES**.

Request for Comments

The Coast Guard encourages interested persons to submit written data or views concerning the operation of drawbridges during this deviation period. Persons submitting comments should include their names and addresses and identify this notice (CGD09-95-004). Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period.

Drafting Information: The principal persons involved in drafting this document are Robert Bloom, Project Manager, Chief, Bridge Branch, Ninth Coast Guard District, and Commander James Collin, Project Counsel.

Background and Purpose

Following notice and comment rulemaking, the Coast Guard promulgated a final rule on April 18, 1994, establishing a new rule for drawbridge operations on the Chicago River. On September 26, 1994, the United States District Court for the District of Columbia issued an order in the case of *Crowley's Yacht Yard, Inc., Plaintiff, v. Federico Pena, Secretary, United States Department of Transportation, Defendant*, Civil Action Number 94-1152 SSH, rescinding the Final Rule published on April 18, 1994, and reinstating the previous regulations found at 33 CFR 117.391 (1993 Edition). The regulations reinstated by the District Court provided for on-demand openings of drawbridges except during rush hour periods. Further, those regulations contained no requirement for advance notice or the use of specified recreational vessel flotilla size. As a result of the Court decision and to gather data for future use, in the Fall of 1994, the District Commander issued a temporary deviation to regulations for the period October 11, 1994 through December 5, 1994, with a comment period through January 15, 1995. The deviation provided openings of bridges, with a twenty-four hour advance notice to the City of Chicago, from 7 a.m. to 7 p.m. on Saturdays and Sundays, and on Wednesdays between the hours of 6:30 p.m. and 10:00 p.m. throughout the entire period. In addition, from October 11 through October 23 the draws were opened during the period from 10:30 a.m. to 1:30 p.m. on Tuesdays and Thursdays, and from October 23 through December 5 the draws were opened for vessel passage during the