



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[Docket No. USCG-2020-0573]

RIN 1625-AA09

### Drawbridge Operation Regulation; Little Manatee River, Ruskin, Hillsborough County, FL

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is changing the operating schedule that governs the Seaboard Systems Railroad Bridge across the Little Manatee River, mile 2.4, in Ruskin, Hillsborough County, FL. This rule updates the name of the swing bridge and allow the swing bridge to be operated remotely. The draw is maintained in the closed position and will open with a three hour notice to the remote bridge tender.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type USCG-2020-0573 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail LT Clark W. Sanford with Coast Guard Sector St Petersburg Florida, Waterways Office; telephone 813-228-2191 x8105, e-mail [Clark.W.Sanford@uscg.mil](mailto:Clark.W.Sanford@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
OMB	Office of Management and Budget
NPRM	Notice of proposed rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code

## **II. Background Information and Regulatory History**

On October 20, 2020, the Coast Guard published a notice of proposed rulemaking entitled “Drawbridge Operation Regulation; Little Manatee River, Ruskin, Hillsborough County, FL” in the Federal Register (85 FR 66501). The NPRM invited comments on the proposed rule change. One comment was received from the bridge owner and will be addressed in section IV.

## **III. Legal Authority and Need for Rule**

The bridge owner, CSX Transportation, requested the Coast Guard consider allowing remote operation of the Seaboard System Railroad Bridge across the Little Manatee River, mile 2.4, in Ruskin, Hillsborough County, Florida. The Seaboard System Railroad Bridge across the Little Manatee River, mile 2.4, in Ruskin, Hillsborough County, FL is a swing bridge. The bridge is currently maintained in the closed position with a three hour advance notification for an opening. It has a vertical clearance of 5 feet at mean high water in the closed position and a horizontal clearance of 35 feet.

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

## **IV. Discussion of Comments, Changes and the Final Rule**

The Coast Guard is modifying the operating schedule that governs the Seaboard System Railroad Bridge across the Little Manatee River, mile 2.4, in Ruskin, Hillsborough County, FL. The bridge is currently unmanned and maintained in the closed position.

The bridge owner provided one comment. CSX requested the wording regarding

the detection sensors be modified. The detection sensors will not detect approaching vessels but vessels that are within the radius of the swing span of the bridge. This change was made to the regulatory text in paragraph (c).

This rule allows the bridge to be remotely monitored and operated. Visual monitoring of the waterway shall be maintained with the use of cameras and the detection of vessels approaching the span shall be accomplished with detection sensors. Marine radio communication shall be maintained with mariners near the bridge for the safety of navigation. The remote tender may also be contacted via telephone at (813) 677-3974. The span is normally in the fully closed position and will display red lights to indicate that the span is fully closed. This rule would allow vessels to pass through the bridge while taking into account the reasonable needs of other modes of transportation.

## **V. Regulatory Analyses**

The Coast Guard has developed this 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 protesters.

### *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 rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it 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 given advanced notice. Vessels that can transit under the bridge without

an opening may do so 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 received no comments from the Small Business Administration on this rule. 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.

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

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 section.

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.

### *C. 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).

### *D. Federalism and Indian Tribal Government*

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 is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

### *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 rule will not result in such an expenditure, we do discuss the effects of this 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 rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 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.

#### *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.

#### **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; and Department of Homeland Security Delegation No. 0170.1.

2. Revise §117.297 to read as follows:

#### **§117.297 Little Manatee River.**

The draw for the CSX Railroad Bridge, mile 2.4 near Ruskin, FL, shall operate as follows:

(a) The bridge is normally maintained in the closed position.

(b) The bridge is not tendered locally, but will be monitored and operated by a remote bridge tender.

(c) Marine radio communication shall be maintained, by the remote bridge tender, with mariners near the bridge for the safety of navigation. Visual monitoring of the waterway shall be maintained with the use of cameras. Detection sensors shall be installed for the detection of vessels within the radius of the swing span of the bridge.

(d) The draw must open on signal if at least three hours advance notice is requested via marine radio channel 9 VHF or telephone (813) 677-3974.

(e) The bridge shall not be operated from the remote location in the following events: failure or obstruction of the detection sensors, cameras, or marine radio communications. In these situations, a bridge tender must be on-site and locally operate the bridge.

Dated: March 15, 2021.

Eric C. Jones,  
Rear Admiral, U.S. Coast Guard,  
Commander, Seventh Coast Guard District.

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