



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2020-0694]

RIN 1625-AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Madeira Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Welch Causeway (SR 699) Bridge, Gulf Intracoastal Waterway mile 122.8, at Madeira Beach, Florida. This change will place the drawbridge on a daily operating schedule to alleviate vehicle congestion due to on demand bridge openings and balance the needs of all modes of transportation due to the economic growth in the vicinity of the bridge.

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-2020-0694 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, U.S. Coast Guard, Sector Saint Petersburg Waterways Management Division; telephone 727-824-7506, e-mail Clark.W.Sanford@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
FL	Florida
TD	Test Deviation
FDOT	Florida Department of Transportation

II. Background Information and Regulatory History

On December 18, 2020 the Coast Guard published a Test Deviation entitled Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Madeira Beach, FL in the Federal Register (85 FR 82355). The TD invited comments on the proposed rule change. One comment was received during the test period which was addressed in the NPRM.

On April 30, 2021, the Coast Guard published a Notice of Proposed Rulemaking, with a request for comments, entitled “Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Madeira Beach, FL” in the Federal Register (85 FR 22911). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended May 15, 2021, we received one comment and that comment is addressed in Section IV of this Final Rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The City of Madeira Beach, Florida has requested the current operating schedule be modified due to the increased economic growth and vehicle traffic in the area, as well as a school located in close proximity to the bridge. The bridge owner, Florida Department of Transportation (FDOT), is in support of the proposed changes.

The Welch Causeway (SR 699) Bridge across the Gulf Intracoastal Waterway,

mile 122.8, at Madeira Beach, Florida is a double-leaf bascule bridge with a 25 foot vertical clearance at mean high water in the closed position and an 89 foot horizontal clearance between fenders. The normal operating schedule for the bridge is found in 33 CFR 117.287(h). Navigation on the waterway is commercial and recreational.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard is changing the operating schedule that governs the Welch Causeway (SR 699) Bridge, mile 122.8 at Madeira Beach, Florida. The bridge currently operates on demand, and will continue to open on demand with the following exception; from 7 a.m. to 7 p.m. daily, except Federal holidays, the draw need only open on the hour and half hour.

One comment was received. The commenter felt the bridge should remain on demand, not limit when vessels can pass and that better vehicle traffic control would solve any traffic congestion. Due to the increase in vehicle traffic, the Coast Guard has determined that placing the bridge on a schedule will alleviate some congestion while still meeting the reasonable needs of navigation. Additionally, vessels able to pass beneath the bridge without an opening may do so at any time.

V. Regulatory Analyses

We 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. 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).

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

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 zero 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. Amend §117.287 by revising paragraph (h) to read as follows:

§ 117.287 Gulf Intracoastal Waterway

* * * * *

(h) The draw of the Welch Causeway (SR 699) Bridge, Gulf Intracoastal Waterway mile 122.8, at Madeira Beach, Florida, shall open on signal; except that, from 7 a.m. to 7 p.m. daily, except Federal holidays, the draw need only open on the hour and half hour.

Dated: June 21, 2021

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