



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0658]

RIN 1625-AA09

Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Roosevelt (US1) Bridge, across the Okeechobee Waterway, mile 7.5, at Stuart, FL. This action is necessary to allow the drawbridge to operate on demand, as outlined in the Record of Decision for the high-level fixed US1 Roosevelt Bridge which was constructed in 1997. Additionally, with the increase in railway activity on the adjacent railroad bridge, this modification will allow the drawbridges to operate in concert. The drawbridge name in the existing regulation is incorrect and will be changed in this Final Rule.

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 the docket number (USCG-2023-0658) in the “SEARCH” box and click “SEARCH”. In the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ms. Jennifer Zercher, Bridge Management Specialist, Seventh Coast Guard

District; telephone 305-415-6740, email Jennifer.N.Zercher@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
FDOT	Florida Department of Transportation

II. Background Information and Regulatory History

The drawbridge name in the regulation, Roosevelt (US1) Bridge, is incorrect and will be permanently changed in the CFR and referred to for the remainder of the Final Rule as SR 707 (Dixie Highway) Bridge.

The SR 707 (Dixie Highway) Bridge was included in previously published notices and a general deviation with a request for comments in the Federal Register, under docket number USCG-2022-0222. These actions were taken to gather comments on waterway usage and the operation of the Florida East Coast Railroad Bridge and the SR 707 (Dixie Highway) Bridge at Stuart, FL.

On May 3, 2022, under docket USCG-2022-0222, the Coast Guard published a Notification of Inquiry entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” in the Federal Register (87 FR 26145). On June 10, 2022, a Supplemental Notification of Inquiry entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” was published in the Federal Register (87 FR 35472). We received a total 2358 comments on those publications and those comments pertaining to SR 707 (Dixie Highway) Bridge were addressed in the NPRM. On June 8, 2023, under docket USCG-2022-0222, the Coast Guard published a Temporary Deviation entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” in the Federal

Register (88 FR 37470). During the test period, 342 comments were received and those comments pertaining to SR 707 (Dixie Highway) Bridge were addressed in the NPRM.

On October 27, 2023, under docket USCG-2023-0658, the Coast Guard published a Notice of Proposed Rulemaking entitled Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” in the *Federal Register* (88 FR 73808). There, the Coast Guard stated why it issued the NPRM and invited comments on the proposed regulatory action related to this regulatory change. During the comment period that ended November 27, 2023, we received zero comments.

III. Legal Authority and Need for Rule

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

The SR 707 (Dixie Highway) Bridge, across the OWW, mile 7.5, at Stuart, Florida, is a double-leaf bascule bridge with a 14-foot vertical clearance at mean high water in the closed position. The normal operating schedule for the bridge is set forth in 33 CFR 117.317(d). Navigation on the waterway is commercial and recreational.

The drawbridge was required to operate on demand as outlined in the Record of Decision for the high-level fixed US1 Roosevelt Bridge which was constructed in 1997. The drawbridge was operating on demand until June 2020 when emergency repairs to the US1 Roosevelt Bridge necessitated the drawbridge operate on scheduled openings. It was then discovered the drawbridge operating regulation was not removed from the CFR in 1997 as required. After emergency repairs were completed on the US1 Roosevelt Bridge, the bridge owner, FDOT, continued to operate the drawbridge per 33 CFR 117.317(d). Given the previous requirement to operate on demand, the increase in railway activity on the adjacent railroad bridge, and the unique operation of the railroad bridge, the Coast Guard is modifying the operating regulation to allow the drawbridges to operate in concert.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a comment period of 30 days, and no comments were received. The current regulation provides for the drawbridge to remain closed to navigation during specified times and to operate on scheduled openings at other times. This final rule allows for the drawbridge to operate on demand and in concert with adjacent railroad drawbridge. Vessels that can pass beneath the drawbridge 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

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 proposed rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). 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 transit the drawbridge on demand and vessels able to pass 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 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.

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. 00170.1. Revision No. 01.3

2. Amend § 117.317 by revising paragraph (d) to read as follows:

§ 117.317 Okeechobee Waterway

(d) The SR 707 (Dixie Highway) Bridge, mile 7.5 at Stuart, shall open on signal; except when the adjacent railroad bridge is in the closed position, the draw need not open. The draw must open immediately upon opening of the railroad bridge to pass all accumulated vessels requesting an opening.

Dated: January 31, 2024.

Douglas M. Schofield
Rear Admiral, U.S. Coast Guard
Commander, Coast Guard Seventh District
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