



BILLING CODE 9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

**[Docket No. USCG-2024-0628]**

**RIN 1625-AA09**

**Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Osprey, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the operating schedule that governs the Blackburn Point Bridge across the Gulf Intracoastal Waterway (GICW), mile 63.1, at Osprey, FL. The Casey Key Association has requested the Coast Guard consider changing the operating schedule to reduce drawbridge openings during the weekday peak traffic periods to assist with alleviating roadway congestion. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must reach the Coast Guard on or before

**[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** You may submit comments identified by docket number USCG-2024-0628 using Federal Decision Making Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the

**SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Ms. Jennifer Zercher, Bridge Management Specialist, Seventh Coast Guard District; telephone 571-607-5951, email Jennifer.N.Zercher@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
TD	Temporary Deviation
FL	Florida
GICW	Gulf Intracoastal Waterway

**II. Background, Purpose and Legal Basis**

Blackburn Point Bridge across the GICW, mile 63.1, at Osprey, FL, is a swing bridge with a 9-foot vertical clearance above mean high water when in the closed position. The existing regulation requires the bridge to open on demand any time a vessel requests an opening. The current regulation can be found in 33 CFR 117.5.

On August 6, 2024, the Coast Guard published a temporary deviation entitled “Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Osprey, FL” in the Federal Register (89 FR 63815). That temporary deviation, effective from 7 a.m. on

August 12, 2024, through 7 p.m. on January 31, 2025, allows Blackburn Point Bridge to operate with restricted, scheduled openings at peak traffic times during weekdays and operate on demand at all other times. This temporary deviation was authorized to test the impact of restricted opening on vessels and roadway traffic. The comment period for this temporary deviation ended September 20, 2024, with three comments received.

The three comments received voiced concerns related to the proposed change. The first commentor stated that when the swing bridge was placed on a modified schedule last year to conduct emergency repairs, it caused unsafe conditions for vessels due to the number of waterway users and the restrictive nature of the waterway at the swing bridge. The modified schedule which the commentor was referring, was different than the currently proposed schedule. The previous modifications placed the swing bridge on a twice an hour opening schedule every day of the week, including the weekend. This proposed rule would allow mariners to request an opening three times an hour at designated times Monday through Friday during peak rush hours and would operate on demand all other times. The Coast Guard feels this proposed rule would allow for safe navigation while assisting with alleviating roadway congestion. The commentor also stated that roadway congestion is due to the bridge being a single-lane roadway passage which causes a pinch-point, and suggested the county consider widening or replacing the bridge. Sarasota County is considering replacing the swing bridge, but changes to the physical structure of the bridge are outside the scope of this rulemaking.

The second commentor stated the proposed opening schedule provides no real relief to roadway traffic because it takes about ten minutes for the bridge to cycle. The Coast Guard has reviewed bridge logs. When one or two vessels are passing, the average

opening time is five to seven minutes. When three or more vessels pass the average opening times is eight to twelve minutes. The Coast Guard has not received information supporting the statement the proposed schedule would not provide relief to roadway traffic. To the contrary, the county stated the proposed schedule is assisting with alleviating roadway congestion.

The last commentor stated the swing bridge should remain required to open on demand because tidal movement and shallow water makes it dangerous to hold station while waiting on an opening. Again, this proposed rule would allow mariners to request an opening three times an hour at designated times Monday through Friday during peak rush hours and would operate on demand all other times. The Coast Guard feels this allows for safe navigation while assisting with alleviating roadway congestion.

This NPRM will be open for public comment simultaneously with a Test Deviation under the same name and docket number. Both documents can be found at <https://www.regulations.gov> and comments can be made to either document.

### **III. Discussion of Proposed Rule**

The current operating schedule allows the Blackburn Point Bridge to open on demand for marine traffic. Under this proposed rule, the swing bridge will open at the top of the hour, 20 minutes past the hour and 40 minutes past the hour, Monday through Friday between the hours of 7 a.m. and 7 p.m. At all other times the swing bridge will open on demand. This will assist with alleviating roadway congestion during the weekday and allow for on demand openings in the evenings and weekends. Vessels that can pass beneath the bridge without an opening may do so at any time. Emergency vessels and tugs with tows can still request an opening at any time.

This proposed rule would add one new special requirement to section 117.287 for the Gulf Intracoastal Waterway, the Blackburn Point Bridge at Osprey, FL. Additionally, this proposed rule will republish section 117.287 to reorganize the paragraph structure to follow current regulatory drafting requirements.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on 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). Accordingly, the NPRM 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 during the designated times 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 certifies under 5 U.S.C. 605(b) that this proposed rule would 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 IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

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 proposed rule. If the proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

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

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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed 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 proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG- 2024-0628 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER**

**INFORMATION CONTACT** section of this document for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted, or a final rule is published of any posting or updates to the docket.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### **List of Subjects in 33 CFR Part 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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 DHS Delegation No. 00170.1.

Revision No.01.3

2. Revise and republish § 117.287 to read as follows:

**§ 117.287 Gulf Intracoastal Waterway.**

Public vessels of the United States and tugs with tows must be passed through the drawspan of each drawbridge listed in this section at anytime.

(a) The draw of the Boca Grande Swingbridge, mile 34.3, shall open on signal; except that, from 7 a.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need open only on the hour and half hour. On Saturday, Sunday and Federal holidays, from 7 a.m. to 6 p.m., the draw need open only on the hour, quarter hour, half hour and three quarter hour.

(b) The draw of the Venice Avenue bridge, mile 56.6 at Venice, shall open on signal, except that from 7 a.m. to 4:30 p.m., Monday through Friday except Federal holidays, the draw need open only at 10 minutes after the hour, 30 minutes after the hour and 50 minutes after the hour and except between 4:35 p.m. and 5:35 p.m. when the draw need not open.

(c) The draw of the Hatchett Creek (US-41) bridge, mile 56.9 at Venice, shall open on signal, except that, from 7 a.m. to 4:20 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour and except between 4:25 p.m. and 5:25 p.m. when the draw need not open. On Saturdays, Sundays, and Federal holidays from 7:30 a.m. to 6 p.m. the draw need open only on the hour, quarter-hour, half-hour, and three quarter-hour. This bridge

need not open to navigation on the second Sunday of November annually, from 9 a.m. to 5 p.m., to facilitate the Iron Man Triathlon event.

(d) The Blackburn Point Bridge, mile 63.1, at Osprey, Florida shall open on signal; except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the draw need only open on the hour, 20 minutes after the hour, and 40 minutes after the hour.

(e) The Stickney Point Bridge, mile 68.6, at South Sarasota, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the hour and half hour.

(f) The Siesta Drive Bridge, mile 71.6, at Sarasota, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the hour and half hour.

(g) The draw of the Cortez (SR 684) Bridge, mile 87.4, at Bradenton Beach, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the quarter hour and three quarter hour.

(h) The draw of the Anna Maria (SR 64) (Manatee Avenue West) Bridge, mile 89.2, at Bradenton Beach, Florida shall open on signal, except that from 6 a.m. to 7 p.m. daily, the draw need only open on the quarter hour and three quarter hour.

(i) The draw of the Corey Causeway (SR693) bridge, mile 117.7 at South Pasadena, shall open on signal; except that, from 8 a.m. to 7 p.m. Monday through Friday, and 10 a.m. to 7 p.m. Saturdays, Sundays, and Federal holidays, the draw need be opened only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

(j) The draw of the Treasure Island Causeway bridge, mile 119.0 shall open on signal except that from 7 a.m. to 7 p.m. the draw need open on the hour, 20 minutes after the hour and 40 minutes after the hour Monday through Friday and on the quarter hour and three quarter hour on Saturday, Sunday and Federal holidays.

(k) 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: December 20, 2024.

**Douglas M. Schofield,**

*Rear Admiral, U.S. Coast Guard,*

*Commander, Coast Guard Seventh District.*

[FR Doc. 2024-31328 Filed: 1/7/2025 8:45 am; Publication Date: 1/8/2025]