

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2022–0298]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Pascagoula River, Pascagoula, MS

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change how the CSX Transportation railroad drawbridge across the Pascagoula River, mile 1.5, Pascagoula, MS will be operated. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, Alabama. We invite your comments on this proposed rulemaking.

**DATES:** Comments and relate material must reach the Coast Guard on or before October 17, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2022–0298 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Douglas Blakemore, Eighth Coast Guard District Bridge Administration Branch Chief at (504) 671–2128 or [Douglas.A.Blakemore@uscg.mil](mailto:Douglas.A.Blakemore@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

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

The CSX Transportation railroad drawbridge crosses the Pascagoula River, mile 1.5, Pascagoula, MS. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, Alabama. This bridge has an eight foot vertical clearance at mean high water, an unlimited vertical clearance when in the open to vessel position and a 140' horizontal clearance. The bridge operates according to 33 CFR 117.5.

CSX Transportation has requested to operate this bridge remotely from their railroad terminal in Mobile, AL. A copy of the bridge owners request can be found at <https://www.regulations.gov> in the Docket USCG–2022–0298. CSX has installed a remote operation system at the bridge and a remote control center, located in Mobile, AL. At the bridge, CSX has installed infrared cameras, closed circuit cameras and TVs, communication systems and information technology systems on the bridge that allow an operator from Mobile to monitor and control the bridge.

This NPRM will run 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.

This CSX drawbridge is located on the Pascagoula River, mile 1.5, Pascagoula, MS. It has a vertical clearance of eight feet in the closed to vessel position. The bridge operates according to 33 CFR 117.5. Pascagoula River is used by commercial tows, barges and recreational vessel. The bridge opens for vessels about 17 times per day and vessels that do not need the bridge to open may pass.

#### III. Discussion of Proposed Rule

33 CFR 117.42 sets Coast Guard drawbridge regulations. This regulation authorizes the Coast Guard District Commander to approve operations from a remote site. The bridge opens on signal for the passage of vessels in

accordance with 33 CFR 117.5. This proposed rule will not change the operating schedule nor will it change how to request or signal for the bridge to open. Mariners requiring an opening may do so by contacting the CSX remote control center on Channels 13/16 or by the phone number posted at the bridge.

This proposed rule requires CSX to have the capability, including resources and manpower to return the operator to the bridge location following any of the below situations:

(1) Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge.

(2) CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements; and.

(3) At the direction of the District Commander

#### 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 NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. 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 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 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 (Pub. L. 104–121), we want to assist small entities in understanding this proposed 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. 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 Chapter 3, Table 3–1 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. 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–2022–0298 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 web page. 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. Additionally, 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 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; DHS Delegation No. 0170.1.

■ 2. Add § 117.682 to read as follows:

#### § 117.682 Pascagoula River.

(a) The draw of the CSX Transportation Railroad bridge, mile 1.5 Pascagoula, MS shall be remotely operated by the bridge tender at CSX’s

bridge remote control center in Mobile, Alabama and shall open promptly and fully when signaled to open. Vessels can contact the CSX bridge tender via VHF-FM channel 13 or 16 or by telephone at the number displayed on the signs posted at the bridge to request an opening of the draw.

(b) CSX will return the tender to the bridge location within 3 hours following any of the below situations:

(1) Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge;

(2) CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements;

(3) Anytime at the direction of the District Commander.

Dated: August 5, 2022.

**R.V. Timme,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 2022-17578 Filed 8-15-22; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2022-0058]

RIN 1625-AA87

#### Security Zone; Port of Miami, Florida

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to change the existing Port of Miami fixed security zone regulation that encompasses certain navigable waters of the Miami Main Channel in Miami, FL. The proposed change is designed to extend the existing security zone eastward. The extension is needed to include future cruise ship terminals at the Port of Miami. This proposed action would extend the existing fixed security zone approximately 840 yards eastward along the Miami Main Channel. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before September 15, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG-2022-0058 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public

Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LTJG Ben Adrien, Waterways Management Division Chief, U.S. Coast Guard; telephone (305) 535-4307, email [Benjamin.D.Adrien@uscg.mil](mailto:Benjamin.D.Adrien@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

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

On January 23, 2003, the Coast Guard published a final rule entitled, “Security Zones; Port of Palm Beach, Port Everglades, Port of Miami, and Port of Key West, Florida” in the **Federal Register**<sup>1</sup> to protect the public, ports, and waterways of the Port of Palm Beach, Port Everglades, and the Port of Miami, against potential subversive acts. The existing fixed security zone described in 33 CFR 165.760(b)(2), for the Port of Miami, encompasses all waters between Watson Island and Star Island from the MacArthur Causeway south to Port of Miami. The Port of Miami is undergoing an expansion project that will create new cruise ship terminals at the eastern end of the Port and outside the existing security zone.

The proposed rule would make changes to the existing fixed security zone for the Port of Miami, described in § 165.760(b)(2), by extending the zone by approximately 840 yards eastward along the Miami Main Channel to just west of the Biscayne Bay Pilots Station. This proposed change is intended to protect the public, ports and waterways of the Port of Miami against potential subversive acts. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

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

The Coast Guard is proposing to extend the existing Port of Miami fixed security zone eastward approximately 840 yards. The extension would cover all navigable waters in the Main Ship Channel from approximately Star Island to just west of the Biscayne Bay Pilots Station. The extension would carry the same regulations described in § 165.760,

which goes into effect when two or more passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG), enter or moor within this zone. When the security zone is in effect, persons and vessels would not be allowed to enter or transit the security zone along the Miami Main Channel, unless authorized by Captain of the Port of Miami or a designated representative. The regulatory text we are proposing appears at the end of this document.

##### **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 a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

###### **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 NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on three specific factors: (1) persons and vessels may transit the Miami Main Channel when only one passenger vessel is berthed in the channel, one vessel carrying cargoes of particular hazard is berthed in the channel, or one vessel carrying LHG is berthed in the channel; (2) persons and vessels may operate within the security zone when authorized by Captain of the Port of Miami or a designated representative; and (3) mariners will be notified of the fixed security zone extension through the Local Notice to Mariners.

###### **B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 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.

<sup>1</sup> 68 FR 3189.