

process for significant guidance; and taking and responding to petitions about guidance (85 FR 53163).

On January 20, 2021, President Biden issued the “Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation” which, among other things, revoked E.O. 13891 and directed agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the Executive orders. The January 20, 2021, E.O. states that it is the policy of the Administration “to use available tools to confront the urgent challenges facing the Nation, including the coronavirus disease 2019 (COVID-19) pandemic, economic recovery, racial justice, and climate change. To tackle these challenges effectively, executive departments and agencies (agencies) must be equipped with the flexibility to use robust regulatory action to address national priorities. This order revokes harmful policies and directives that threaten to frustrate the Federal Government’s ability to confront these problems, and empowers agencies to use appropriate regulatory tools to achieve these goals.”

After consideration and review, the Department has concluded that the internal rule on guidance deprives the Department and subordinate agencies of necessary flexibility in determining when and how best to issue public guidance based on particular facts and circumstances, and unduly restricts the Department’s ability to provide timely guidance on which the public can confidently rely. Therefore, in accordance with President Biden’s January 20, 2021, E.O., the Department is issuing this final rule, which rescinds the internal rule on guidance published at 85 FR 53163.

## II. Final Rule

The Department has determined that this rule is suitable for final rulemaking. The revisions to the Department’s policies and requirements surrounding guidance are purely internal matters of agency management, as well as the agency’s organization, procedure, and practice. Accordingly, as with the August 2020 final rule, the Department is not required to engage in a notice and comment process to issue them under either the Administrative Procedure Act. See 5 U.S.C. 553(a)(2), 553(b)(A). Furthermore, because this rule is procedural rather than substantive, the normal requirement of 5 U.S.C. 553(d) that a rule not be effective until at least 30 days after publication in the **Federal Register** is inapplicable. The Department also finds good cause to

provide an immediate effective date for this rule, because it imposes no obligations on parties outside the federal government and therefore no advance notice is required to enable employers or other private parties to come into compliance.

### List of Subjects in 29 CFR Part 89

Administrative practice and procedure, Labor.

### PART 89 [REMOVED]

■ For the reasons discussed in the preamble, and under the authority of 5 U.S.C. 301, the Department of Labor amends 29 CFR subtitle A by removing part 89.

Signed at Washington, DC.

**Stephanie Swirsky,**

*Deputy Assistant Secretary of Labor for Policy.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2019-0911]

#### Drawbridge Operation Regulation; Mobile River, Hurricane, AL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the CSX Transportation Railroad drawbridge across the Mobile River, mile 13.3 near Hurricane, Mobile County, Alabama. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. The Coast Guard is seeking comments from the public regarding these proposed changes.

**DATES:** This deviation is effective without actual notice from 7:01 a.m. January 27, 2021 through 7 a.m. July 8, 2021. For the purposes of enforcement, actual notice will be used from 7 a.m. January 8, 2021 through 7 a.m. January 27, 2021. Comments and related material must reach the Coast Guard on or before July 8, 2021.

**ADDRESSES:** You may submit comments identified by docket number USCG-2019-0911 using Federal eRulemaking 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 test deviation, call or email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administration Branch Chief; telephone (504) 671-2128, email [Douglas.A.Blakemore@uscg.mil](mailto:Douglas.A.Blakemore@uscg.mil).

### SUPPLEMENTARY INFORMATION:

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

The CSX Transportation Railroad drawbridge has a vertical clearance of 5.5’ in the closed to navigation position and operates in accordance with 33 CFR 117.5. The CSX Railroad Company, the owner of the bridge requested to change operation of the bridge from a tended drawbridge to a remotely operated drawbridge.

CSX has completed installation of 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. They have also developed an operations manual that remote operators use to control each bridge.

The purpose of this test is to evaluate the impact to navigation safety and vessels reasonable ability to use the waterway while the drawbridge is operated from the CSX remote control center in Mobile, AL. The bridge’s operation schedule and methods to contact the bridge to open will remain the same.

The waterway users include recreational vessels and commercial tows; which combined requires approximately six openings a day.

The Coast Guard will inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

## II. 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.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. 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.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and 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).

Documents mentioned in this test deviation as being available in this docket and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. 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.

Dated: January 11, 2021.

**Douglas Allen Blakemore, Sr.,**

*Chief, Bridge Administration Branch, Eighth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2018-0968]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Old Fort Bayou, MS

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating schedule that governs the

State Road 609 highway bascule bridge across the Old Fort Bayou mile 1.6, Ocean Springs, Harrison County, Mississippi. This change was requested to address increased vehicular congestion, and allows Mississippi Department of Transportation to operate the bridge to meet vessel and traffic needs.

**DATES:** This rule is effective February 26, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type USCG-2018-0968 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 email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671-2128, email [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  
E.O. Executive Order  
FR Federal Register  
MDOT Mississippi Department of Transportation  
OMB Office of Management and Budget  
Pub. L. Public Law  
NPRM Notice of proposed rulemaking  
§ Section  
SR State Road  
U.S.C. United States Code

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

On July 20, 2020 the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Old Fort Bayou, MS in the **Federal Register** (85 FR 43773), to seek public comments on whether the Coast Guard should consider modifying the current operating schedule to the Old Fort Bayou drawbridge. We received 0 comments.

##### III. Discussion of Proposed Rule

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

The Mississippi Department of Transportation (MDOT) requested to change the operating requirements for the SR 609 drawbridge across Old Fort Bayou, mile 1.6, Ocean Springs, Harrison County, Mississippi. This bridge currently operates according to the schedule found in 33 CFR part 117. MDOT requested to close the bridge to vessels during peak vehicle traffic periods, from 6:30 a.m. to 8:00 a.m. and

from 4 p.m. to 6 p.m. Monday through Friday, except federal holidays and to require a 12 hour notification to open the bridge during periods of very little vessel traffic activity on Thanksgiving Day, Christmas Day and New Year's Day.

This waterway is used by small tows and barges, commercial fisherman and recreational vessels. Closing the bridge to vessel traffic in the morning and evening commuting hours reduces vehicle queues and does not create vessel queues. The reduction in vehicle queues enhances safety by preventing vehicles from backing up on U.S. 90 highway. This bridge opens infrequently to vessels on Thanksgiving Day, Christmas Day and New Year's Day, therefore requiring a 12 hour notification provides vessels with a reasonable ability to use Old Fort Bayou.

Additionally the bridge is required to open for emergencies according to 33 CFR 117.31.

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

There were no comments on this rule change. The Coast Guard provided a comment period of 60 days. Based on the vessel data and bridge openings this rule provides vessels with a reasonable ability to use the waterway. We identified no impacts on marine navigation with this proposed rule.

##### V. Regulatory Analyses

The Coast Guard 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 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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) 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 open the draw and transit given advance notice. Those