

authorization from the injured individual or legal representative or an order from a court of competent jurisdiction. A clerk or attorney signed subpoena is not "an order from a court of competent jurisdiction." Subpoenas are processed in accordance with 32 CFR part 725.

(2) Requests for testimony of any Navy employees will be processed in accordance with DoD Directive 5405.2, 32 CFR part 725, and SECNAVINST 5820.8A. If the injured person, or his or her attorney has signed an agreement to protect the Government's interest and is requesting the testimony of a locally available physician who treated the injured person, however, this request falls within an exception to the regulations. See 32 CFR 725.5(g)(3). In this situation, the injured person or the attorney need only ask the JAG designee for assistance in scheduling the testimony of the treating physician and the JAG designee will coordinate with the physician's command to determine availability. Such testimony is limited to factual issues. The definition of factual issues is slightly different under the regulations than it is in civil litigation. Opinions that are formed prior to, or contemporaneously with, the treatment at issue and are routinely required in the course of the proper performance of professional duties constitute essentially factual matters. For example, the physician will have opined at the time of treatment if further treatment will be necessary. The physician may testify to that as factual, not opinion, testimony. Opinions that are formed after treatment and are not required for continuing treatment, especially those that respond to hypothetical questions, are not factual and are considered to be expert testimony. This expert testimony, regardless of who requests it, will be processed in accordance with 32 CFR part 725, and must be forwarded to OJAG Code 14, General Litigation Division. Requests for expert testimony are rarely granted.

■ 15. Section 757.19 is amended by revising paragraphs (a), (b) introductory text, (b)(6), and removing paragraph (c) to read as follows:

**§ 757.19 Waiver and compromise.**

(a) *General.* OJAG Code 15 (Claims and Tort Litigation) may authorize waiver or compromise of any claim that does not exceed \$100,000.00. NLSO EURSWA may agree to compromise or waive claims for \$40,000.00 or less. NLSO EURSWA claims in excess of \$40,000.00 may be compromised or waived only with Code 15 approval.

(b) *Waiver and compromise.* The JAG designee may waive the Federal government's MCRA interest when a responsible third-party tortfeasor cannot be located, is judgment proof, or has refused to pay and litigation is not feasible. Waiver or compromise is also appropriate when, upon written request by the injured person or legal representative, it is determined that collection of the full amount of the claim would result in undue hardship to the injured person. In assessing undue hardship, the following should be considered:

\* \* \* \* \*

(6) Amount of settlement or award from third-party tortfeasor or contract insurer; and

\* \* \* \* \*

■ 16. Section 757.20 is revised to read as follows:

**§ 757.20 Receipt and release.**

The JAG designee will execute and deliver appropriate releases to third parties who have made full or agreed upon compromised payments. A copy of the release will be kept in the claims file.

Dated: September 10, 2007.

**T.M. Cruz,**

*Lieutenant, Judge Advocate General's Corps,  
U.S. Navy, Federal Register Liaison Officer.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. CGD07-07-203]

**Drawbridge Operation Regulations;  
Gulf Intracoastal Waterway, Pinellas  
County, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Welch Causeway/Tom Stuart (SR 666) Bridge across the Gulf Intracoastal Waterway, mile 122.8, at Madeira Beach, Pinellas County, Florida. This deviation is necessary to expedite repairs to the Welch Causeway Bridge. This deviation allows the bridge to open a single-leaf only with double-leaf openings available upon three hours notice to the bridge tender.

**DATES:** This deviation is effective from 7 a.m. on September 19, 2007 through 5 p.m. on November 30, 2007.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 415-6744. The Seventh Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Bridge Branch, (305) 415-6744 or e-mail [Michael.b.lieberum@uscg.mil](mailto:Michael.b.lieberum@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Coastal Marine Construction has requested a deviation from the regulation published in 33 CFR 117.287(l) that states "the draw of the Welch Causeway (SR 699) bridge, mile 122.8 at Madeira Beach shall open on signal \* \* \*"

A deviation from the aforementioned schedule in 33 CFR 117.287(l) is necessary for worker safety and to expedite repairs to the Welch Causeway Bridge. This deviation will remain in effect from 7 a.m. on September 19, 2007 through 5 p.m. on November 30, 2007.

The Welch Causeway/Tom Stuart Bridge will open a single-leaf only on the hour and half-hour. A double-leaf opening will be available so long as a three hour notice to the bridge tender is provided. Vessels in any situation that endangers life or property will be allowed to pass through the bridge on signal.

In accordance with 33 CFR 117.35, the drawbridge must return to its regular operating schedule on November 30, 2007.

Dated: August 30, 2007.

**Greg Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

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**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 38**

**RIN 2900-AM64**

**Government-Furnished Headstone and Marker Regulations**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

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