



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2012-0625]

RIN 1625-AA09

Drawbridge Operation Regulation; Schuylkill River,
Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations that govern the operation of the Conrail Bridge over the Schuylkill River, mile 6.4 near Christian Street, at Philadelphia, PA. The proposed rule intends to change the current regulation to reflect a change in name of the bridge and to meet the current lack of demand for openings. The current regulation requires the Conrail Bridge to open on signal if at least two hours notice is given. CSX Transportation acquired the bridge from Conrail 13 years ago and there have been no requests requiring openings. Based on this lack of demand for opening, this proposed rule would allow the bridge to remain in the closed to navigation position. This proposed rule would also rename

the bridge from the Conrail Bridge to the CSX Bridge.

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-2012-0625 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. 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 e-mail Jim Rousseau, Bridge Management Specialist, Fifth Coast Guard District;

telephone 757-398-6557, e-mail James.L.Rousseau2@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0625), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received

at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2012-0625" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the

"Keyword" box insert "USCG-2012-0625" and click "Search."
Click the "Open Docket Folder" in the "Actions" column.
You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

Regulatory History and Information

The current operating schedule for the bridge is set out in 33 CFR 117.905 (e) issued Oct 29, 1984. The current regulation states: The draw of the Conrail bridge, mile 6.4 near Christian Street, Philadelphia, shall open on signal if at least two hour notice is given.

Basis and Purpose

CSX Transportation has requested a change in the operation regulation and name change of the Conrail Bridge across the Schuylkill River. CSX Transportation acquired the Conrail Bridge in June 1999 from Conrail. Based on a letter from CSX to the Coast Guard there have been no requests requiring openings since the acquisition in June 1999. Since the 1999 CSX acquisition up to the present day, the Conrail Bridge is an active and heavily used CSX railroad line. The bridge supports 51 MGT of freight every year. The Coast Guard proposes to allow the above mentioned bridge to remain in the closed position to navigation in accordance with 33 CFR 117.39. The Coast Guard also proposes to rename the bridge from the Conrail Bridge to the CSX Bridge to reflect the current ownership.

The vertical clearance of the Swing Bridge is 26 feet above mean high tide in the closed position and unlimited in the open position. The current operating schedule for

the bridge is set out in 33 CFR 117.905 (e) but is no longer necessary because of the lack of openings since June 1999.

Discussion of Proposed Rule

The Coast Guard proposes to revise 33 CFR 117.905 (e) for the Conrail Bridge over the Schuylkill River. The proposed regulation would change the existing bridge name from the Conrail Bridge to the CSX Bridge representing the new owner. This proposed rule also allows the bridge to not open for the passage of vessels due to lack of opening requests over the last 13 years. The change of the operating regulation would reflect the current use of the waterway and vessels with a mast height less than 26 feet can pass underneath the bridge in the closed position at anytime.

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 or executive orders.

Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by

Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The proposed change is expected to have minimal impact on mariners due to no requests requiring openings for the past 13 years and no anticipated change to vessel traffic.

Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. 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.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons. There have been no vessel requests requiring openings for the past 13 years. Vessels that can safely transit under the bridge (with a mast height less than 26 feet) may do so at any time.

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.

Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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, above. 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.

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.).

Federalism

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 various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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.

Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, and Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating

regulations or procedures for drawbridges. This rule is categorically excluded under figure 2-1, paragraph (32)(e), of the Instruction, and an environmental analysis checklist and a categorical exclusion determination are not 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.

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; Department of Homeland Security Delegation No. 0170.1.

2. Revise §117.905 (e), to read as follows:

§ 117.905 Schuylkill River

* * * * *

(e) The draw of the CSX Bridge, mile 6.4 near Christian Street, Philadelphia, need not be opened for the passage of vessels.

Dated: July 26, 2012

STEVEN H. RATTI
Rear Admiral, United States Coast Guard
Commander, Fifth Coast Guard District

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