



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2018-0228

RIN 1625-AA09

Drawbridge Operation Regulation; Delaware River, Burlington, NJ and Bristol, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the SR 413/Burlington-Bristol Bridge across the Delaware River, mile 117.8, between Burlington, NJ and Bristol, PA. This proposed modification will allow the drawbridge to be maintained in closed-to-navigation and is necessary to accommodate bridge maintenance.

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].

The Coast Guard anticipates that this proposed rule will be effective from 8 a.m. on February 15, 2019, through 7:59 a.m. on September 17, 2019.

ADDRESSES: You may submit comments identified by docket number USCG-2018-0228 using Federal eRulemaking Portal at <http://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 e-mail Mr. Michael Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757-398-6557, email Michael.R.Thorogood@uscg.mil

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

On April 26, 2018, the Coast Guard published a temporary deviation entitled “Drawbridge Operation Regulation; Delaware River, Burlington NJ and Bristol, PA” in the Federal Register (83 FR 18226). This temporary deviation was to facilitate bridge maintenance and painting of the vertical lift span of the drawbridge from May 1, 2018, through September 30, 2018. During the planned maintenance period, a work platform would have reduced one half of the bridge span vertical clearance to approximately 58 feet above mean high water in the closed position and approximately 132 feet above mean high water in the open position.

On August 9, 2018, the Coast Guard published a cancellation of the temporary deviation entitled “Drawbridge Operation Regulation; Delaware River, Burlington NJ and Bristol, PA” in the Federal Register (83 FR 18226), in the

Federal Register (83 FR 39361). The temporary deviation was cancelled due to delays in performing bridge maintenance outside the navigation span, thereby eliminating the need for a temporary deviation to facilitate bridge maintenance in the navigation span. Due to the cancellation of the work, the platform was not installed and the bridge is operating under its regular operating schedule in 33 CFR 117.716 (a). In accordance with 33 CFR 117.35(e), the drawbridge was returned to its regular operating schedule upon publication of the cancellation.

The Burlington County Bridge Commission, who owns and operates the SR 413/Burlington-Bristol Bridge across the Delaware River, mile 117.8, between Burlington, NJ and Bristol, PA, has requested this modification to allow the drawbridge to be maintained in the closed-to-navigation position to facilitate maintenance and painting of the vertical lift span of the drawbridge.

III. Discussion of Proposed Rule

The SR 413/Burlington-Bristol Bridge across the Delaware River, mile 117.8, between Burlington, NJ and Bristol, PA, has a vertical clearance of 61 feet above mean high water in the closed position and 135 feet above mean high water in the open position. The current operating schedule for the drawbridge is published in 33 CFR §117.716 (a).

Under this proposed temporary final rule, the drawbridge will be maintained in the closed-to-navigation position and open on signal if at least a two-hour notice is given, from 8 a.m. on February 15, 2019, through 7:59 a.m. on September 17, 2019. At all other times, the drawbridge will operate per 33 CFR 117.716 (a).

This proposed temporary final rule is necessary to facilitate safe and effective bridge maintenance and painting of the vertical lift span of the drawbridge, while providing for the reasonable needs of navigation. Multiple work platforms will reduce the entire bridge span vertical clearance to approximately 58 feet above mean high water in the closed position and approximately 132 feet above mean high water in the open position. Maintenance personnel, equipment and materials will be located inside the work platforms while maintenance and painting is being performed. To facilitate an opening of the bridge, equipment and materials will need to be secured inside or removed from the work platforms and personnel will need to vacate the work platforms.

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 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 fact that vessels can still transit the bridge on signal if at least a two-hour notice is given.

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 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.

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 Government

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 above.

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 proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, 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. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2-1, paragraph (32) (e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. 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.

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.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://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 <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://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.

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. Amend §117.716 by adding paragraph (c) to read as follows:

§ 117.716 Delaware River

* * * * *

(c) The draw of the SR 413 (Burlington-Bristol) Bridge, mile 117.8, between Burlington, NJ and Bristol, PA, shall open on signal if at least a two-hour notice is given from 8 a.m. on February 15, 2019, through 7:59 a.m. on September 17, 2019.

Dated: February 13, 2019

K. M. Smith
Rear Admiral, U.S. Coast Guard
Commander, Fifth Coast Guard District
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