



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2020-0235

RIN 1625-AA09

Drawbridge Operation Regulation; Indiana Harbor Canal, East Chicago, IN

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the Elgin, Joliet, and Eastern Railroad Bridge, mile 0.68, and the Elgin, Joliet, and Eastern Railroad Bridge, mile 1.89, both over the Indiana Harbor Canal near the town of East Chicago, IN. Canadian National, the owner and operator of these bridges has requested to stop continual drawtender service to both bridges and operate the bridges only while trains are crossing the bridge.

**DATES:** Comments and related material must reach the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2020-0235 using Federal e-Rulemaking 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 e-mail: Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
IGLD85	International Great Lakes Datum of 1985
LWD	Low Water Datum based on IGLD85
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

All drawbridges over the Indiana Harbor Canal are required to open on signal and there are no previous rulemakings to discuss. The Elgin, Joliet, and Eastern Railroad Bridge, mile 0.68, and the Elgin, Joliet, and Eastern Railroad Bridge, mile 1.89, both over the Indiana Harbor Canal, currently open on signal and are manned by a drawtender at each bridge. The rail traffic at both bridges has decreased to approximately three trains a week and the bridge owner has requested to discontinue continuous drawtender service. The operation of the bridges should remain transparent to the vessels navigating the waterway.

The Indiana Harbor Canal is a commercial waterway that serves several industries near the city of East Chicago, IN. The U.S. Army Corps of Engineers in cooperation with the U.S. Environmental Protection Agency are currently improving the width and

depth of the waterway to allow larger vessels to use the waterway. Currently the waterway is used by commercial tug and barge traffic; however, larger international oil tankers and bulk transfer vessels have shown interest in establishing docks above the Indianapolis Boulevard Bridge, mile 2.59. We have no reports of recreational vessel traffic in this waterway.

The Elgin, Joliet, and Eastern Railroad Bridge, mile 0.68, Indiana Harbor Canal is a single leaf bascule bridge that provides a vertical clearance of 7 feet above LWD in the closed position and the Elgin, Joliet, and Eastern Railroad Bridge, mile 1.89, over the Indiana Harbor Canal is a single leaf bascule bridge that provides a vertical clearance of 5 feet above LWD in the closed position. Both bridges provide an unlimited clearance in the open position.

### III. Discussion of Proposed Rule

The proposed rule will establish the procedures to move the bridge to allow rail traffic to cross the bridge while giving notice to the vessels transiting the waterway that the bridge will be lowering. Ten minutes before the bridge is lowered for train traffic a crewmember from the train will initiate a SECURITE call on VHF-FM Marine Channel 16 that the bridge will be lowering for train traffic and invite any concerned mariners to contact the drawtender on VHF-FM Marine Channel 12. The drawtender will also visually monitor for vessel traffic and listen for the standard bridge opening signal of one prolonged blast and one short blast from vessels already transiting the waterway. After the ten minute, warning one last SECURITE will be made that the bridge will be lowering for rail traffic five minutes before lowering. Once the draw tender is satisfied that it is safe the bridge will be lowered for rail traffic. Once the rail traffic has cleared

the bridge, the bridge will be raised and locked in the fully open to navigation position.

#### 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 ability that vessels can still transit the bridge and the only change is the drawtender will only be in attendance to lower the bridge to allow rail traffic to cross and to raise the bridge after rail traffic has cleared the bridge.

##### 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 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, Table3-1 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.

#### 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 <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 Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM 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.

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 § 117.400 to part 117 to read as follows:

**§ 117.400 Indiana Harbor Canal**

(a) Elgin, Joliet, and Eastern Railroad Bridge, 0.68, over the Indiana Harbor Canal need not have a drawtender in continued attendance at the bridge. Ten minutes before the bridge is lowered for train traffic a crewmember from the train will initiate a SECURITE call on VHF-FM Marine Channel 16 that the bridge will be lowering for train traffic and invite any concerned mariners to contact the drawtender on VHF-FM Marine Channel 12. The drawtender will also visually monitor for vessel traffic and listen for the standard bridge opening signal of one prolonged blast and one short blast from vessels already transiting the waterway. After the ten minute warning, another SECURITE shall be made on VHF-FM Marine Channel 16 that the bridge will be lowering for rail traffic, five minutes before lowering. Once the draw tender is satisfied that it is safe, the bridge will be lowered for rail traffic. Once the rail traffic has cleared the bridge, the bridge shall be raised and locked in the fully open to navigation position.

(b) Elgin, Joliet, and Eastern Railroad Bridge, mile 1.89, over the Indiana Harbor Canal need not have a drawtender in continued attendance at the bridge. Ten minutes before the bridge is lowered for train traffic a crewmember from the train will initiate a SECURITE call on VHF-FM Marine Channel 16 that the bridge will be lowering for train traffic and invite any concerned mariners to contact the drawtender on VHF-FM Marine Channel 12. The drawtender will also visually monitor for vessel traffic and listen for the standard bridge opening signal of one prolonged blast and one short blast from vessels already transiting the waterway. After the ten minute warning, another SECURITE shall be made on VHF-FM Marine Channel 16 that the bridge will be lowering for rail traffic, five minutes before lowering. Once the draw tender is satisfied

that it is safe, the bridge will be lowered for rail traffic. Once the rail traffic has cleared the bridge, the bridge shall be raised and locked in the fully open to navigation position.

Dated: July 17, 2020

D. L. Cottrell  
Rear Admiral, U.S. Coast Guard,  
Commander, Ninth Coast Guard District  
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