



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2020-0513]

RIN 1625-AA09

Drawbridge Operation Regulation; River Rouge, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the National Steel Corporation Railroad Bridge, mile 0.40, the Delray Connecting Railroad Bridge, mile 0.34, and the Delray Connecting Railroad Bridge, mile 0.80. Delray Connecting Railroad Company, the owner and operator of these three bridges, has requested to stop continual drawtender service and to operate the two bridges only while trains are crossing the bridge, and one bridge upon signal if a 4-hour advance notice is received.

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-2020-0513 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

The Delray Connecting Railroad requested to reduce drawtender staffing at their three bridges at Zug Island. The National Steel Corporation Railroad Bridge, mile 0.40, the Delray Connecting Railroad Bridge, mile 0.34, and the Delray Connecting Railroad Bridge, mile 0.80, currently open on signal and are required to be manned by a drawtender at each bridge. The reason for the request to stop continual drawtender service is that the primary customer, a steel mill on Zug Island, has been placed into caretaker status, significantly decreasing the rail traffic across these bridges. The operation of the bridges should however remain transparent to the vessels navigating the waterway.

The River Rouge is a commercial waterway that serves several heavy industries

near the city of Detroit, MI. 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 Rouge River, where both the swing and the bascule Delray Bridges are located. Originally, the River Rouge navigated two ninety-degree bends through the area that is referred to as the Old Channel before emptying into the Detroit River. In 1888 the Zug Island Improvement Company cut a channel through the south section of Zug Island locally called the Short Cut Channel creating Zug Island and allowing vessels to bypass the two ninety-degree bends in the Old Channel. This Short Cut Channel is the preferred path for large vessels. Currently the waterway is used by large commercial freighters and several tug and barge vessels. Recreational use of the waterway is very limited. There are twelve bridges across the River Rouge.

The National Steel Corporation Railroad Bridge, mile 0.40, is a single leaf bascule bridge, that provides an unlimited clearance in the open position and a vertical clearance of six feet above LWD in the closed position. The Delray Connecting Railroad Bridge, mile 0.34, is a single leaf bascule bridge, that provides an unlimited clearance in the open position and a vertical clearance of seven feet above LWD in the closed position. The Delray Connecting Railroad Bridge, mile 0.80, is a swing bridge that provides an unlimited clearance in the open position and a vertical clearance of seven feet above LWD in the closed position. All three bridges are owned by the Delray Connecting Railroad who is requesting the change.

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 call will be made that the bridge will be lowering for rail traffic five minutes before lowering. Once the drawtender 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.

The Delray Connecting Railroad Bridge, mile 0.34, has had limited requests for openings and provides access to Zug Island for vehicles and rail traffic. The owner of the railroad states the bridge has been operating with advance notice illegally without complaints for several years.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analysis 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. Revise § 117.645 to read as follows:

§ 117.645 River Rouge.

- (a) The Delray Connecting Railroad Bridge, mile 0.34, need not have a drawtender in continued attendance at the bridge and shall open on signal if a 4-hour advance notice is provided.
- (b) The Delray Connecting Railroad Bridge, mile 0.80, over the Old Channel need not have a drawtender in continued attendance at the bridge. The bridge will remain open 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 call 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.

- (c) The National Steel Corporation Railroad Bridge, mile 0.40, need not have a drawtender in continual 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 call shall be made on VHF-FM Marine Channel 16 that the bridge will be lowering for rail traffic five minutes before lowering. Once the drawtender 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.

- (d) The draw of the Conrail Bridge, mile 1.48, is remotely operated, is required to operate a radiotelephone, and shall open on signal.

D. L. COTTRELL

Rear Admiral, U.S. Coast Guard,

Commander, Ninth Coast Guard District

[FR Doc. 2020-22993 Filed: 10/26/2020 8:45 am; Publication Date: 10/27/2020]