



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2020-0033]  
RIN 1625-AA09

### Drawbridge Operation Regulation: Rainy River, Rainy Lake and their tributaries, Rainier, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

---

**SUMMARY:** The Coast Guard proposes to authorize the Canadian National Railroad Bridge, mile 85.0, across the Rainy River to operate remotely. The request was made by the bridge owner. The bridge will continue to open on signal.

**DATES:** Comments and relate 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-2020-0033 using Federal e-Rulemaking 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. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail [Lee.D.Soule@uscg.mil](mailto:Lee.D.Soule@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

- I. Table of Abbreviations *[Delete/add any abbreviations not used/used in this document]*

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
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**

Rainy River and Rainy Lake serve as the border between the United States of America and Canada. This bridge is a single leaf, bascule type railroad bridge that provides a horizontal clearance of 125 feet. The water level on Rainy Lake and under the bridge is controlled by a hydro-electric dam facility at International Falls, Minnesota, thus charted datum is based on the water level surface of Rainy Lake when the gauge at Fort Frances, Canada reads 1107.0 feet resulting in a variable vertical clearance of 6 to 10 feet in the closed position. The railroad bridge carries significant train traffic across the international border. Rainer, Minnesota is a customs port-of-entry.

## **III. Discussion of Proposed Rule**

On April 8, 2020, we published a Temporary Deviation with request for comments in FR 2020-06822 and we did not receive any comments.

## **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 proposed rule intends to allow the bridge to be operated remotely. All other conditions in 33 CFR 117.664 shall remain.

*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. 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, 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 eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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 § 117.664 to read as follows:

##### **§ 117.664 Rainy River, Rainy Lake and their tributaries.**

The draw of the Canadian National Bridge, mile 85.0, at Rainer, may operate remotely, and shall open on signal; except that, from October 16 to April 30, the draw shall open on signal if at least 12-hours advance notice is provided. The commercial phone number to

provide advance notice shall be posted on the bridge so that it is plainly visible to vessel operators approaching the up or downstream side of the bridge. The owners of the bridge shall provide and keep in good legible condition two board gauges painted white with black figures to indicate the vertical clearance under the closed draw at all water levels. The gauges shall be so placed on the bridge that they are plainly visible to operators of vessels approaching the bridge either up or downstream. The bridge shall operate and maintain a VHF-FM Marine Radio.

Dated: April 2, 2021.

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

[FR Doc. 2021-09003 Filed: 5/4/2021 8:45 am; Publication Date: 5/5/2021]