



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0113]

RIN 1625-AA09

Drawbridge Operation Regulation; Cheboygan River at Cheboygan, MI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is altering the operating schedule that governs the US 23 Highway Bridge, mile 0.92, across the Cheboygan River – Part of the Inland Route, at Cheboygan, Michigan. The Cheboygan County Road Commission requested we extend the winter advance notice for the bridge.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type the docket number USCG-2023-0113 in the “SEARCH” box and click “SEARCH”. In the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this 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
MDNR	Michigan Department of Natural Resources
MDOT	Michigan Department of Transportation
OMB	Office of Management and Budget
LWD	Low Water Datum based on IGLD85
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On April 5, 2023, the Coast Guard published an NPRM titled Drawbridge Operation Regulation; Cheboygan River at Cheboygan, MI in the Federal Register (88 FR 20082) and posted it on Regulations.gov for 60-days to seek your comments on whether the Coast Guard should consider modifying the current operating schedule to the US 23 Highway Bridge, mile 0.92, across the Cheboygan River – Part of the Inland Route. No comments were received during the NPRM.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The Cheboygan County Road Commission requested we extend the winter advance notice for the bridge due to ice coverage which continues beyond the period requiring advance notice as set forth in the prior rule.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a comment period of 60 days and no comments were received.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders

related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

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. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

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 received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will 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 V. A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this 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 rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3-1 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.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 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; and DHS Delegation No. 00170.1, Revision No. 01.3.

2. Revise § 117.627 to read as follows:

§ 117.627 Cheboygan River

The draw of the US 23 highway bridge, mile 0.9 at Cheboygan shall operate as follows:

(a) From May 1 through November 31-

(1) Between the hours of 7 a.m. and 11 p.m., the draw need only open from three minutes before to three minutes after the quarter-hour and three-quarter hour.

(2) Between the hours of 11 p.m. and 7 a.m., no drawtender is required to be at the bridge and the bridge need not open unless a request to open the draw is given at least 2-hours in advance of a vessels intended time of passage through the draw.

(b) From December 1 through April 31, no drawtender is required to be at the bridge and the bridge need not open unless a request to open the draw is given at least 12-hours in advance of a vessels intended time of passage through the draw.

(c) At all times, the draw shall open as soon as possible for the passage of vessels if carrying public safety or public utility vehicles and persons to or from the island.

(d) The owner of the bridge shall provide and keep in good legible condition two board gauges painted white with black figures not less than six inches high to indicate the vertical clearance under the closed draw at all water levels. The gauges shall be placed on the bridge so that they are plainly visible to operators of vessels approaching the bridge either up or downstream.

Jonathan Hickey,
Rear Admiral, U.S. Coast Guard,
Commander, Ninth Coast Guard District.

