



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0912]

RIN 1625-AA09

Drawbridge Operation Regulation; Saginaw River, Bay City, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily modify the operating schedule that governs the Independence Bridge, mile 3.88, over the Saginaw River to allow contractors to rehabilitate the bridge. We invite your comments on this proposed rulemaking.

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-2023-0912 using Federal Decision-Making 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
IGLD	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 Saginaw River is a 22.4-mile-long river in that is a popular recreational and an important shipping route for mid-Michigan and the Great Lakes in general. The Independence Bridge, mile 3.88, is one of sixteen bridges that cross the Saginaw River in the Bay City Metropolitan Area. Out of the sixteen bridges only four are bascule bridges, two are owned by the State of Michigan and two have been recently leased by the city of Bay City to United Bridge Partners, a private company that intends to rehabilitate the two bridges and charge vehicles tolls to cross the bridges.

The proposal to lease the bridges and charge tolls has created the need for several public meetings and has flooded the local area news media with stories concerning the progress of the rehabilitation and administration regarding the Independence Bridge.

United Bridge Partners has established a physical customer service office within Bay City and a twenty-four-hour call line residents and mariners can call to receive information concerning the bridge operations and proposed construction schedule. United Bridge Partner, the City of Bay City, along with their chosen contractor held a public meeting on August 15, 2023, along with many media interviews prior to the public meeting. Most of the questions from the public were regarding the pass ability of vehicles and tolls associated with the new bridge ownership rather than the impacts the maintenance would have on the marine community.

On November 13, 2023, representatives from Congressman Dan Kildee, Senator Gary

Peters, Congressman John Moolenaar, and Senator Debbie Stabenow's offices along with the U.S. Coast Guard and nineteen area stakeholders had a meeting to discuss the proposed rehabilitation project's effects on vessel traffic. The thirty people in attendance proposed the conditions in this proposed rule.

The Independence Bridge, mile 3.88, is a double leaf bascule bridge that crosses the Saginaw River and provides a horizontal clearance of 150 feet and a vertical clearance of 22 feet above LWD in the closed position and an unlimited clearance in the open position. The bridge allows vehicles and pedestrians to cross the river near the north end of the City of Bay City. The Independence Bridge, mile 3.88, is regulated under 33 CFR 117.647 and is allowed to open twice hourly in the summer and from January 1 through March 31 will open if a 12-hour advance notice is provided.

The reason for this proposed rule will be to allow the bridge to be secured to masted navigation from December 1 through March 31 and then through the summer require a 2-hour advance notice for openings to accommodate the rehabilitation of the bridge.

Granit Construction, the official contractor for the bridge owner has made this request for a temporary change in the bridge schedule to allow for the rehabilitation of structural, electrical, and mechanical components of the bridge during the winter when accumulation of ice makes navigating the river difficult.

III. Discussion of Proposed Rule

The Independence Bridge, mile 3.88, is near the mouth of the river and there are no alternative routes for vessels. The December 1 to March 31 dates have been identified by local stake holders and dock owners as the best time to secure the bridge to masted navigation for the rehabilitation project. Because the new bridge owner intends to charge tolls on the bridge that once was free to cross has caused several people to be concerned about any bridge project in the area.

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.

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 proposed rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). 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).

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice and that the repair winter work will be done at a time of year when vessel traffic is at its lowest.

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 proposed 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 proposed rule would economically affect it.

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 proposed rule. If the proposed 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 proposed 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, 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 proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2023-0912 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. 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.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, 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 of any posting or updates to the docket.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> 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).

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. 00170.1,

Revision No. 01.3.

2. [From the date of publication in the *Federal Register*], through 11:59 p.m. on March 31, 2025, § 117.647(e) is temporarily added to read as follows:

§ 117.647 Saginaw River

* * * * *

(e) The draw of the Independence Bridge, mile 3.88, over the Saginaw River, will require a 2-hour advance notice of arrival to be given to move barges away from the draw to allow vessels to pass through the bridge from April 24, 2024, through November 30, 2024, and the bridge need not open for the passage of vessels from December 1, 2024, through March 31, 2025.

Jonathan Hickey,

Rear Admiral, U.S. Coast Guard,

Commander, Ninth Coast Guard District.