



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

### Docket No. USCG-2024-0018

### RIN 1625-AA09

### Drawbridge Operation Regulation; Milwaukee, Menomonee, and Kinnikinnic Rivers, and South Menomonee and Burnham Canals

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily modify the operating schedule that governs the Cherry Street Bridge, mile 2.29, over the Milwaukee River. The City of Milwaukee has requested this temporary deviation to allow contractors to complete an extensive rehabilitation of 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*].

The Coast Guard anticipates that this proposed rule will be effective from July 22, 2024, through November 1, 2025.

**ADDRESSES:** You may submit comments identified by docket number USCG-2024-0018 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. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this

proposed rule, call or e-mail 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
§	Section
U.S.C.	United States Code

### II. Background, Purpose and Legal Basis

The Milwaukee River is 104 miles long with the lower 3.22 miles considered navigable by vessels coming from Lake Michigan. The Milwaukee River is crossed by twenty-two bridges, fifteen of which are movable bridges. The river is used by commercial and recreational vessels, including both powered and unpowered vessels. The primary commercial vessels are passenger vessels whose regular routes travel from Lake Michigan to the Knapp Street Bridge, mile 2.14, over the Milwaukee River. The head of navigation for the Milwaukee River is just upriver of the Humbolt Avenue Bridge, mile 3.22, over the Milwaukee River.

The Cherry Street Bridge, mile 2.29, over the Milwaukee River, is a double leaf bascule bridge that provides a horizontal clearance of 80-feet and a vertical clearance of 14-feet in the closed position and an unlimited clearance in the open position based on LWD.

### III. Discussion of Proposed Rule

The Cherry Street Bridge requires extensive electrical rehabilitation, including a new submarine cable to be installed under the river bottom that will prevent the bridge

from opening. This type of work is typically completed during the winter months when vessel traffic is at its lowest. However, Milwaukee is hosting a national convention of nationwide significance in July 2024, and construction can not start until the convention concludes.

The vessels that normally transit the river are less than 40-feet wide but are over 14-feet in height. In order to accommodate their passage, one leaf of the bridge would remain open, except from November 1 through April 1, when both leaves would be secured and unable to open for any vessels.

The local DOT and City Offices provided a public information meeting in June 2023 and the proceedings can be viewed by visiting the City of Milwaukee Department of Public Works web page, available at <https://city.milwaukee.gov/dpw>.

The U.S. Army Corps of Engineers will approve the installment of the submarine cable.

#### 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). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the continuing ability of vessels to transit the bridge through the one open leaf during the summer and that the closure of

both leaves will occur during a period when ice historically prevents vessel navigation.

#### 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 (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 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 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-2024-0018 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 In § 117.1093 effective 8 a.m. on July 22, 2024, through 11:59 p.m. on November 1, 2025, add paragraph (a)(6) to read as follows:

**§ 117.1093 Milwaukee, Menomonee, and Kinnikinnic Rivers, and South**

**Menomonee and Burnham Canals.**

(a) \* \* \* \* \*

(6) The draw of the Cherry Street Bridge, mile 2.29, over the Milwaukee River, will, from July 22, 2024, through October 31, 2024, secure one bridge leaf in the down position and operate the other bridge leaf normally for the passage of vessels. From November 1, 2024, through April 1, 2025, both leaves will be secured in the down position and the bridge will not open for the passage of vessels.

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

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