



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0969]

RIN 1625-AA09

Drawbridge Operation Regulation; Umpqua River, Reedsport, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the name and operating schedule that governs the Central Oregon and Pacific railroad bridge across the Umpqua River, mile 11.5, at Reedsport, OR. Coos Bay Rail Line, the bridge owner, requested to change the name of the bridge to a locally recognized name and to change the current operating schedule due to reduced marine traffic using the waterway. The modified rule would change the name of the bridge, allow the bridge to be maintained in the closed to navigation position and remove the requirement for fog signals at the bridge. We invite your comments on this proposed rulemaking.

DATES: Comments and relate material must reach the Coast Guard on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2023-0969 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 Danny McReynolds, Bridge Management Specialist Thirteenth District, Coast Guard; telephone 206-220-7234, email, d13-smb-d13-bridges@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CBRL	Coos Bay Rail Line
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

The Coos Bay Rail Line (CBRL) owns and operates the Central Oregon and Pacific railroad bridge across the Umpqua River at mile 11.5. The CBRL requested to change the subject bridge name to the Umpqua River railroad bridge, which is a more recognizable local name. The Central Oregon and Pacific railroad bridge will be referred to as the Umpqua River railroad bridge for the rest of this NPRM. Umpqua River railroad bridge is maintained in the open to navigation position. We are proposing to change 33 CFR §117.893(b) to maintain the Umpqua River railroad bridge in the closed to navigation position and open to marine vessels with a minimum of two-hours' advance notice. In the closed to navigation position, the bridge provides 15 feet of vertical clearance above high water. The Umpqua River has experienced a reduction in marine traffic using the waterway while CBRL has experienced an increase in rail traffic that requires the bridge span to be in the closed position. Vessels that regularly request draw openings are two fishing vessels named Pearl J and Pacific Marit. These vessels transit upriver to a repair facility, and after repairs, the vessels transit down river to their normal moorings. The

proposed regulation change would allow the Umpqua River railroad bridge to be maintained in the closed to navigation position to marine vessels, and the bridge will open with at least two-hours' notice via the phone number posted on the bridge. The phone number to contact CBRL will be published in the Local Notice to Mariners.

Currently the bridge operates fog signals to warn vessels when the bridge is cycled closed and open during reduced visibility. This proposed regulation change would open the subject bridge on request from mariners, and therefore, the mariner would know the bridge is open and have no need to be warned of the position of the draw during fog or any reduced visibility type of weather.

III. Discussion of Proposed Rule

This proposed rule would amend the operating schedule of the Umpqua River railroad bridge by allowing the bridge to remain in the closed to navigation position and would require two-hours' advance notice for all draw openings. The rule is necessary to balance the needs of the railroad by reducing the need to frequently cycle the draw closed for rail traffic and back open for marine traffic, while still maintaining the reasonable needs of navigation. Over the years the bridge has had multiple owners, but the bridge name in the Code of Federal Regulations has not changed. Changing the bridge name to the proposed name will alleviate the need of a future rule change if the railroad ownership changes. Vessels able to transit under the bridge without an opening may do so at any time.

This regulatory action determination is based on the ability for the Umpqua River railroad bridge to open on signal after the CBRL has received at least two-hours' notice by telephone. The Coast Guard has made this finding understanding that the proposed change allows any vessel that needs a drawbridge opening to transit through the Umpqua River railroad bridge with the proper advance notice during clear visibility or reduced visibility. Changing the position of the draw to be maintained closed to mariners, vice

open to mariners, would allow all mariners to know the draw is always closed except when a signal is given to open the draw.

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.

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.

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-2023-0969 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; and DHS Delegation No. 00170.1,

Revision No. 01.3.

2. Amend § 117.893 by revising paragraph (b) to read as follows:

§ 117.893 Umpqua River.

* * * * *

(b) The draw of the Umpqua River railroad bridge, mile 11.5 at Reedsport, shall open on signal if at least two-hours' notice is given via telephone.

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Dated: April 4, 2024.

Charles E. Fosse,
Rear Admiral, U. S. Coast Guard,
Commander, Thirteenth Coast Guard District.
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