



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[Docket No. USCG-2022-0221]

RIN 1625-AA09

### Drawbridge Operation Regulation; Rancocas Creek, Burlington County, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the US Route 543 (Riverside-Delanco) Bridge across Rancocas Creek, mile 1.3, at Burlington County, NJ. The proposed rule allows the drawbridge to change its operating schedule to reduce the number of bridge openings during off-peak hours. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must reach the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2022-0221 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 supplemental proposed rule, call or e-mail Mr. Hal R. Pitts, Fifth Coast Guard District Chief Bridge Branch (dpb); telephone 571-607-8298, e-mail Hal.R.Pitts@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

**II. Background, Purpose and Legal Basis**

On May 23, 2022, we published a Test Deviation entitled Drawbridge Operation Regulation; Rancocas Creek, Burlington County, NJ, in the *Federal Register* (87 FR 31182). Having received no comments from the Test Deviation, we published an NPRM on April 24, 2023, in the *Federal Register* (88 FR 24739). We received no comments on the proposed rule.

The US Route 543 (Riverside-Delanco) Bridge across Rancocas Creek, mile 1.3, at Burlington County, NJ, and has a vertical clearance of 4 feet above mean high water in the closed-to-navigation position. The bridge currently operates under 33 CFR 117.745(b).

The Rancocas Creek is used predominately by recreational vessels and pleasure crafts. The bridge is currently required to open on signal from 7 a.m. to 11 p.m. from April 1 through October 31 and with 24-hour advance notice from November 1 through March 31. The bridge is allowed to remain closed to navigation at all other times.

The three-year, monthly average number of bridge openings from 7 a.m. to 3 p.m., Monday through Friday, 7 a.m. to 1 p.m., Saturday and Sunday, and from 8 p.m. to 11 p.m., daily, as drawn from the data contained in the bridge tender logs, is presented

below.

<b>April to October (2018, 2019 and 2020)</b>	<b>Average Monthly Openings</b>
Monday - Friday, 7 a.m. to 3 p.m.	4
Saturday & Sunday, 7 a.m. to 1 p.m.	2
Daily, 8 p.m. to 11 p.m.	7

### **III. Discussion of Comments and Change**

As mentioned above, we received no comments from either the Test Deviation or the NPRM, however we noticed that we had not properly conveyed the new operating schedule of the bridge during the months from April 1 to October 31. Explanation of the change is provided in the below section.

### **IV. Discussion of Proposed Rule**

In the NPRM we proposed to modify the drawbridge operating schedule to open on signal from 3 p.m. to 8 p.m., Monday through Friday, and from 1 p.m. to 8 p.m., Saturday and Sunday, from April 16 through October 15. However, the dates did not coincide with the regulation in 33 CFR 117.745(b)(2). The dates that were proposed in the NPRM left a gap of 15 days from March 31 to April 16 and another 15 day gap from October 15 to November 1. During those two 15 day periods, the bridge would fall under the operating requirements of 33 CFR 117.5 requiring the bridge to open on demand at all times. This was an oversight and was not our intention. Given the error on the dates proposed in the NPRM and the length of time from the publication of the NPRM, we are publishing this supplemental notice with request for comment regarding the new proposed dates.

In this SNPRM, we propose to modify the drawbridge operating schedule to open on signal from 3 p.m. to 8 p.m., Monday through Friday, and from 1 p.m. to 8 p.m., Saturday and Sunday, from April 1 through October 31. We are also adding clarifying language to both paragraphs (b)(1) and (2) that the bridge need not open for the passage

of vessels at all other times during the dates in those paragraphs, except as provided in 33 CFR 117.745(a)(1).

## **V. 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 SNPRM 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 during the appropriate time and proper notice. 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 V.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 rulemaking 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 rulemaking 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 rulemaking 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 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 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 rulemaking 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 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 rulemaking. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

**VI. 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-2022-0221 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.

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. Amend § 117.745 by revising paragraph (b) to read as follows:

#### **§ 117.745 Rancocas Creek**

\* \* \* \* \*

(b) The drawspan for the Riverside-Delanco/SR#543 Drawbridge, mile 1.3, at Riverside must operate as follows:

(1) From April 1 through October 31 open on signal from 3 p.m. to 8 p.m., Monday through Friday, and from 1 p.m. to 8 p.m., Saturday and Sunday. The bridge need not open for the passage of vessels at all other times during those dates, except as provided in paragraph (a)(1) of this section.

(2) From November 1 through March 31 from 7 a.m. to 11 p.m., open on signal if at least 24 hours' notice is given and need not open for the passage of vessels at all other times during those dates, except as provided in paragraph (a)(1) of this section.

\* \* \* \* \*

Dated: July 25, 2024.

**J. C. Vann,**

*Rear Admiral, U.S. Coast Guard,*

*Commander, Fifth Coast Guard District.*

[FR Doc. 2024-16824 Filed: 7/30/2024 8:45 am; Publication Date: 7/31/2024]