



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

### Docket No. USCG-2024-1091

### RIN 1625-AA09

### Drawbridge Operation Regulation; Passaic River, Harrison, New Jersey

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is removing the existing drawbridge operation regulation for the AMTRAK Dock Railroad Bridge, mile 5.0 across the Passaic River, Harrison, New Jersey. On December 11, 2024, the U.S. Coast Guard issued a permit amendment for the AMTRAK Dock Bridge which authorized the conversion of the bridge from a movable bridge to a fixed bridge. The operating regulation for the bridge, is no longer applicable or necessary and will be removed from the CFR.

**DATES:** This rule is effective [INSERT 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-2024-1091) 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 Ms. Donna. D. Leoce, Project Officer, First Coast Guard District, telephone, (571) 513-2471, or e-mail [Donna.D.Leoce@uscg.mil](mailto:Donna.D.Leoce@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

## **II. Background Information and Regulatory History**

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is unnecessary. The Coast Guard determined that the AMTRAK Dock Railroad Drawbridge meets the needs of navigation on the Passaic River in the closed position and permitted it as a fixed bridge on December 11, 2024. Therefore, the regulation under 33 CFR 117.739(e) is no longer applicable and shall be removed from publication. It is unnecessary to publish an NPRM because this regulatory action does not place any restrictions on the public or mariners but rather removes a restriction that has no further use or value. This rule will not have any effect on the waterway users or land users of the bridge.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the *Federal Register*. The modification of the bridge from a moveable to fixed bridge was authorized by the U.S. Coast Guard on December 11, 2024, (Permit D01-4-24-1-Dock Bridge-Passaic River, New Jersey) and renovations are currently taking place. The removal of the regulation regarding an inapplicable operating schedule therefore will have no effect on

mariners currently operating on this waterway. This rule merely requires an administrative change to the *Federal Register*, in order to omit a regulatory requirement that is no longer applicable or necessary. Therefore, a delayed effective date is unnecessary and impracticable.

### **III. Legal Authority and Need for Rule**

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

The purpose of this rule is to remove paragraph (e) of 33 CFR 117.739 that refers to the AMTRAK Dock Bridge at mile 5.0, from the Code of Federal Regulations since it governs a bridge that will no longer abiding by an operating schedule.

### **IV. Discussion of Final Rule**

The Coast Guard is removing the regulation in 33 CFR 117.739(e) related to the draw operations for this bridge because it is no longer a drawbridge that opens. The change removes the section of the regulation governing the AMTRAK Dock Railroad Bridge since the bridge has been permitted as a fixed bridge that will remain in a closed position. This Final Rule seeks to update the Code of Federal Regulations by removing language that governs the operation of the AMTRAK Dock Railroad Bridge, which no longer will be a drawbridge. This regulatory change does not affect waterway or land traffic as the permit regarding the conversion to a fixed bridge has already been approved.

### **V. Regulatory Analyses**

We developed the removal of this regulation/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 section 3(f) of Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory determination is based on the fact that the moveable bridge has been permitted as a fixed bridge and can no longer operate as a drawbridge. Removal of the operating schedule from 33 CFR part 117, subpart B will have no effect on the movement of waterway or land traffic.

#### 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 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 final rule would 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 Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

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.

#### **§ 117.739 [Amended]**

2. Amend § 117.739 as follows:

a. Remove paragraph (e);

b. Redesignate paragraphs (f) through (n) as (e) through (m), respectively; and

c. Remove reserved paragraphs (o) through (s).

**M. E. Platt,**

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

*Commander, First Coast Guard District.*

[FR Doc. 2025-06394 Filed: 4/16/2025 8:45 am; Publication Date: 4/17/2025]