



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0968]

RIN 1625-AA09

Drawbridge Operation Regulation; Youngs Bay, Astoria, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to change the operating schedule that governs the Oregon State highway bridge across Youngs Bay foot of Fifth Street (Old Youngs Bay Bridge), mile 2.4, at Astoria, OR. The Oregon Department of Transportation (ODOT) is proposing to change the operating schedule of the Old Youngs Bay Bridge for several months while work is performed on the north bascule lift. This change would allow ODOT to operate the double bascule draw in single leaf mode, one lift at a time, and reduce the vertical clearance of the non-operable half of the span by five feet.

**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]. The Coast Guard anticipates that this proposed rule will be effective from 7 a.m. on March 1, 2017 to 5 p.m. on October 31, 2017.

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0968 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

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FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Steven M. Fischer, Bridge Administrator, Thirteenth Coast Guard District Bridge Program Office, telephone 206-220-7282; e-mail d13-pf-d13bridges@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
§	Section
U.S.C.	United States Code
ODOT	Oregon State Department of Transportation

II. Background, Purpose and Legal Basis

ODOT owns and operates the Old Youngs Bay Bridge, and proposes a temporary change to the existing operating regulation. The Coast Guard approved a temporary rule change authorizing ODOT to operate the Old Youngs Bay Bridge in single leaf mode from May 2016 through October 2016, document citation 81 FR 28018. No negative impacts were observed during that rule change. The subject proposed regulation will allow the drawtender to open half the draw span in single leaf mode, from 7 a.m. on March 1, 2017 to 5 p.m. on October 31, 2017. ODOT’s proposal would allow the construction workers to utilize a containment system that reduces the non-opening half of the bridge’s vertical clearance by five feet. Marine traffic on Youngs Bay consists of vessels ranging from small pleasure craft, sailboats, small tribal fishing

boats, and commercial tug and tow, and mega yachts.

### III. Discussion of Proposed Rule

This proposed rule would temporarily amend 33 CFR § 117.899 by adding the south lift only to open in single leaf mode, and suspend a full opening. This proposed rule is necessary to accommodate extensive maintenance and restoration efforts on the Old Youngs Bay Bridge.

This bridge provides a vertical clearance approximately 19 feet above mean high water when in the closed-to-navigation position. One half of the double bascule bridge will have a containment system installed on the north half of the span, which will reduce the vertical clearance by 5 feet from 19 feet above mean high water to 14 feet above mean high water. Adjusting the existing drawbridge regulation will allow construction workers to complete bridge and highway upgrades before winter of 2017, while having minimal impact on maritime navigation, and no alternate routes are on this part of Youngs Bay into Youngs River.

### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive order (s) related to rulemaking. Below we summarize our analyses based on these statutes and Executive order (s), and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

E.O. 12866 and E.O. 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. 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. This

regulatory action determination is based on the ability for the Old Youngs Bay Bridge to open half the span on signal, and not delay passage of any mariner. Vessels not requiring an opening may pass under the bridge at any time. The north lift vertical clearance will be reduced as explained in paragraph III. No alternate routes are available on this part of Youngs Bay.

**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, above. 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 E.O. 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 above.

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 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 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2-1, paragraph (32) (e), of the Instruction.

Under figure 2-1, paragraph (32) (e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not 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.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 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.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086).

Documents mentioned in this notice and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, 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.

#### 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; Department of Homeland Security Delegation No.

0170.1.

2. In § 117.899, from 7 a.m. on March 1, 2017 through 5 p.m. on October 31, 2017, suspend paragraph (b) and add paragraph (d) to read as follows:

§ 117.899 Drawbridge Operation Regulation; Youngs Bay, Astoria, OR

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(d) The draw of the Oregon State (Old Youngs Bay) Highway Bridge, mile 2.4, across Youngs Bay foot of Fifth Street, shall open the south half of the double bascule span on signal for the passage of vessels, if at least one half-hour notice is given to the drawtender, at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 7 a.m. to 5 p.m. Monday through Friday and from 8 a.m. to 4 p.m. Saturday and Sunday from March 1, 2017 to October 31, 2017. At all other times, including all Federal holidays, but Columbus Day, at least a two-hour notice by telephone is required. The opening signal is two prolonged blasts followed by one short blast.

Dated: 16 November 2016

BRENDAN MCPHERSON  
CAPTAIN, U. S. Coast Guard  
Acting Commander, Thirteenth Coast Guard District  
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