



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0868]

RIN 1625-AA09

Drawbridge Operation Regulation; Isthmus Slough, Coos Bay, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the Oregon State secondary highway bridge (Isthmus Slough Bridge), across Isthmus Slough, mile 1.0, at Coos Bay, OR. To accommodate Oregon Department of Transportation's (ODOT) preservation, painting and replacement of the bridge equipment, the Coast Guard proposes to operate half the double bascule span (single leaf). Additionally, during the period of this work, the non-functioning leaf of the span's vertical clearance will be reduced.

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-2017-0868 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.

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	Federal Register
NPRM	Notice of proposed rulemaking
ODOT	Oregon Department of Transportation
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

The United States Coast Guard proposes the following rulemaking change under statutory authority 33 U.S.C. 499. Oregon Department of Transportation (ODOT), owns and operates the double bascule Isthmus Slough Bridge, across Isthmus Slough, mile 1.0, at Coos Bay, OR, and has requested a temporary change to the existing operating regulation to accommodate the bridge's painting, and preservation and upgrading of the electrical systems. The subject bridge operates in accordance with 33 CFR 117.879. Isthmus Slough provides no alternate routes to pass around the Isthmus Slough Bridge. To facilitate this event, ODOT requests the double bascule bridge operate in single leaf mode (half of the span), and reduce the vertical clearance of the non-functioning leaf. Isthmus Slough Bridge provides a vertical clearance of 28 feet in the closed-to-navigation position referenced to the vertical clearance above mean high water tide level. Up to ten

feet of containment would be installed under the closed-to-navigation leaf only, and would reduce the vertical clearance to 18 feet. Vessels that do not require an opening would be allowed to transit under the bridge at any time. We approved a temporary deviation on August 4, 2017 (82 FR 36332), with the same change in bridge operations as this NPRM. We have not received any reports of problems or complaints with the subject bridge operating under the temporary deviation.

III. Discussion of Proposed Rule

We propose a temporary change to 33 CFR 117.879 to be in effect from 6 a.m. on February 26, 2018, through 6 p.m. on July 31, 2019. This temporary rule would suspend the current paragraph regarding the Oregon State secondary highway bridge (Isthmus Slough Bridge), and add a temporary new paragraph which would amend the operating schedule of the Isthmus Slough Bridge by authorizing one half of the draw to open on signal, and would reduce the horizontal clearance and vertical clearance of the bridge. The temporary rule is necessary to accommodate painting, and preservation and upgrading of its electrical systems. This bridge provides a vertical clearance approximately 28 feet above mean high water when in the closed-to-navigation position. One half of the bascule bridge would have a containment system installed on the non-functioning half of the span, which would reduce the vertical clearance by ten feet to 18 feet. The horizontal clearance with a full opening is 140 feet, therefore, in single leaf operation; a temporary rule change would reduce the horizontal clearance to approximately 70 feet.

IV. Regulatory Analyses

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

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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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), and pursuant to OMB guidance, it is exempt from the requirements of Executive Order 13771. This regulatory action determination is based on the ability for mariners to transit under the bridge because the Isthmus Bridge would open half the draw allowing for the reasonable needs of 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 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 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 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.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed 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, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be 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. Suspend § 117.879 from 6 a.m. on February 26, 2018, through 6 p.m. on July 31, 2019.

3. Add a new temporary § 117.T879, from 6 a.m. on February 26, 2018, through 6 p.m. on July 31, 2019, to read as follows:

§ 117.T879 Isthmus Slough.

The draw of the Oregon State secondary highway bridge, mile 1.0, at Coos Bay, shall operate in single leaf, and open half the draw on signal if at least 24 hours notice is given. The vertical clearance of the non-functioning leaf will be reduced up to ten feet.

Date: October 13, 2017.

Brendan C. Mcpherson,

Captain, U. S. Coast Guard,

Acting Commander, Thirteenth Coast Guard District.

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