



9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

**Docket No. USCG-2017-0695**

**RIN 1625-AA09**

**Drawbridge Operation Regulation; Chambers Bay, Steilacoom, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is modifying the operating schedule that governs the Chambers Bay railroad lift bridge (Chambers Bay Bridge) across Chambers Bay, mile 0.01, near Steilacoom in Pierce County, WA. The modified schedule removes the bridge operator at the subject drawbridge between the hours of 10 p.m. and 6 a.m. due to minimal usage.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG-2017-0695 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this 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
BNSF	Burlington Northern Santa Fe
§	Section
U.S.C.	United States Code

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

On March 12, 2018, we published a notice of proposed rulemaking entitled Drawbridge Operation Regulation; Chambers Bay, Steilacoom, WA, in the Federal Register (83 FR 10648). We received no comments on this rule. On January 17, 2018 we published in the Local Notice to Mariners an approved temporary deviation for the subject bridge while we processed a permanent regulation change.

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

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. Chambers Bay Bridge across Chambers Bay, mile 0.01, near Steilacoom in Pierce County, WA, is a lift bridge and provides a vertical clearance of 10ft in the closed-to-navigation position, and 50ft of vertical clearance in the open-to-navigation position (reference MHW elevation of 12.2 feet). The subject bridge operates in accordance with 33 CFR 117.5. This rule will be a specific operating rule in Subpart B. This new rule allows BNSF to better balance the needs of

marine and rail traffic, and modifies the operating schedule by removing the bridge operator between the evening hours of 10 p.m. and 6 a.m. due to minimal usage. In the last 6 years, only 2% of the subject bridge lifts have occurred between the hours of 10 p.m. and 6 a.m., which equates to approximately 5 openings a year.

#### **IV. Discussion of Comments, Changes and the Final Rule**

We provided a comment period of 30 days, and no comments were received. The current rule for the subject bridge is open on demand (33 CFR 117.5). However, this rule will be a new specific regulation in Subpart B. The new rule will authorize BNSF to remove the bridge operator at the Chambers Bay Bridge from 10 p.m. to 6 a.m., but the draw shall open on signal if at least four hours of notice is given. For vessels engaged in emergency response, the draw will be required to open as soon as possible, and no later than one hour after notification..

#### **V. Regulatory Analyses**

We developed this 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 rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it 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 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 received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed 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 under the bridge may be small entities, for the reasons stated in section V.A. above, this rule will 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 (Public Law 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, above.

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. We have not received any comments for this rule change.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble. We have not received any comments for this rule change.

F. Environment

We have analyzed this 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 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 rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction. A Record of Environmental Consideration and a Memorandum

for the Record are not required for this 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.

**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; Department of Homeland Security Delegation No. 0170.1.

2. Add § 117.1029 under the center heading “Washington” to read as follows:

**§ 117.1029 Chambers Bay.**

The draw of the Chambers Bay railroad lift bridge, mile 0.01, at Chambers Bay, shall open on signal except between 10 p.m. to 6 a.m. The draw shall open on signal from 10 p.m. to 6 a.m. when at least four hours of notice has been given via the phone number displayed at the bridge, and as soon as possible, no later than 1 hour after notification, for vessels engaged in emergency response.

DAVID G. THROOP,  
Rear Admiral, U.S. Coast Guard,  
Commander, Thirteenth Coast Guard District.  
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