

Issued on April 5, 2023.

Christina Underwood,

*Acting Director, Compliance & Airworthiness
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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2022-0989]

RIN 1625-AA09

Drawbridge Operation Regulation; Chicago River, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notification of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Dearborn Street Bridge, mile 1.13, over the Main Branch of the Chicago River at Chicago, Illinois. During this maintenance period, the bridge need only operate one leaf while the other leaf remains secured to masted navigation. Vessels able to pass under the bridge without an opening may do so at any time. We invite your comments on this proposed rulemaking.

DATES: Comments and relate material must reach the Coast Guard on or before May 12, 2023.

ADDRESSES: You may submit comments identified by docket number USCG-2022-0989 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email: Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, email Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
LWD Low Water Datum based on IGLD85
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Dearborn Street Bridge, mile 1.13, spans the Main Branch of the Chicago River at Chicago, Illinois. The Dearborn Street Bridge, mile 1.13, over the Main Branch of the Chicago River provides a horizontal clearance of 200 feet and a vertical clearance of 22 feet above LWD. The bridges of Chicago are historic and all of them are over 100 years old and require frequent maintenance and repairs that occur with little warning. Typically, these repairs must be attended to immediately to protect the health and welfare of pedestrians crossing the bridges each day. The current bridge regulations for the Chicago River are contained in 33 CFR 117.391 and allows the bridges to open on signal if a 12-hour advance notice is provided by commercial vessels and a 20-hour advance notice by recreational vessel during posted times. The Chicago River bridges operate infrequently as almost all vessels can pass through the bridges without an opening. The exceptions are recreational sailing vessels that pass the bridge in City of Chicago sponsored flotillas twice a year; all affected sailing vessels can pass safely with one leaf open. Commercial vessels transits that require both bridge leaves to open are rare, occurring less than once a month on average. All vessels could detour through the Calumet River.

III. Discussion of Proposed Rule

We propose a temporary change to the operation of the Dearborn Street Bridge, mile 1.13, over the Main Branch of the Chicago River at Chicago, Illinois. During the period from midnight on June 1, 2023, through noon on December 1, 2023, the Dearborn Street Bridge, mile 1.13, would only need to operate one leaf for the passage of vessels, while the other leaf is secured to masted navigation for maintenance. The effect of not performing the maintenance would be to deny the bridge to an estimated 10,000 persons commuting to work daily if repairs and required maintenance are not started in a timely manner.

On February 11, 2022, we published in the **Federal Register** (87 FR 7945) a temporary final rule allowing the bridge to be repaired with the same conditions as listed in this proposed rulemaking. During the temporary rule we did not receive any comments or complaints and we believe reducing the comment period from the traditional sixty days to thirty days will meet the reasonable needs of the community.

IV. 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 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).

This regulatory action determination is based on the ability that vessels can still transit the bridge with one leaf open and that most of the vessels can pass safely under the bridge without an opening or can pass through the bridge with only one draw open. Vessels could also detour around the bridge on the Calumet River.

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** 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 Governments

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 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 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, Table 3–1 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 rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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.

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–2022–0989 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 web page. 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. 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 of any posting or updates to the docket.

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; and DHS Delegation No. 0170.1, Revision No. 01.3.

■ 2. In § 117.391, effective from midnight on June 1, 2023, through noon on December 1, 2023, add paragraph (f) to read as follows:

* * * * *

(f) The Dearborn Street Bridge, mile 1.13, need only operate one leaf for the passage of vessels, while the other leaf is secured to masted navigation for maintenance.

* * * * *

M.J. Johnston,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

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