

Dated: August 24, 2023.

Richard P. Armstrong,
Captain, U.S. Coast Guard, Captain of the
Port Detroit.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2022-0237]

RIN 1625-AA09

Drawbridge Operation Regulation; Keweenaw Waterway, Between Houghton and Hancock, MI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is altering the operating schedule that governs the US41 Bridge, mile 16.0, over the Keweenaw Waterway between the towns of Houghton and Hancock, Michigan. This change is being made at the request of the Michigan Department of Transportation, who owns and operates this bridge.

DATES: This rule is effective September 29, 2023.

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-2022-0237 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 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 [Delete/Add Any Abbreviations Not Used/Used in This Document]

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
IGLD85 International Great Lakes Datum of 1985
LWD Low Water Datum Based on IGLD85
OMB Office of Management and Budget
MDOT Michigan Department of Transportation
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The US41 Bridge, mile 16.0, over the Keweenaw Waterway between the towns of Houghton and Hancock, Michigan, is owned and operated by MDOT and is the only crossing over the waterway. The US41 Bridge, mile 16.0, over the Keweenaw Waterway is a combination highway and railroad double deck lift bridge that provides a horizontal clearance of 7-feet in the down position, 103-feet in the open position, and 35-feet in the intermediate position above LWD.

The Keweenaw Waterway divides the Keweenaw Peninsula and is in the middle of the south shore of Lake Superior, a Great Lake known for hazardous weather conditions.

The Federal Government improved the Keweenaw Waterway in 1861 to accommodate interstate commerce and create a harbor of safe refuge for vessels caught in bad weather and is located halfway between Duluth, Minnesota and Sault Ste. Marie, Michigan. Commercial vessels, including some over 700-feet in length, and powered and non-powered recreational vessels utilize the waterway. The passenger vessel RANGER III operates from the east side of the US41 Bridge, mile 16.0, over the Keweenaw Waterway to Isle Royal and is operated by the National Park Service with a capacity of 128-passengers. A U.S. Coast Guard Station is located at the far west end of the waterway.

The bridge has special operating conditions listed in 33 CFR 117.635 that requires the bridge to open on signal; except that from April 15 through December 14, between midnight and 4 a.m., the draw shall be placed in the intermediate position and open on signal if at least 2 hours' notice is given. From December 15 through April 14 the draw shall open on signal if at least 12 hours' notice is given.

On May 19, 2022, we published in the **Federal Register** (87 FR 30418) a notice of temporary deviation from regulations; request for comments to test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule was needed. The Coast Guard sought comments from the public regarding the proposed changes. This deviation was effective from 7 a.m. on May 26, 2022, through 7 p.m. on September 6, 2022. Comments and related material had to reach the Coast Guard on or before November 1, 2022. In this document we provided data of three years of drawtender logs and average daily vehicle crossings provided by MDOT.

On April 12, 2023, we published in the **Federal Register** (88 FR 21940) a notice of proposed rulemaking proposing a permanent change to the bridge's operating schedule. Comments and related material were required to be received by the Coast Guard on or before June 12, 2023.

III. Legal Authority and Need for Rule

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

The Michigan Department of Transportation, who owns and operates the bridge, requested a change to the drawbridge operation schedule to help facilitate all modes of transportation at the bridge.

IV. Discussion of Comments

We received only two comments on the proposed rule and one was a duplication of the other. The commenter was in full support of the rule and no changes have been made as a result.

Ben Larson, Houghton County Administrator, on behalf of the residents, looked forward to the approval of the new regulation becoming.

V. Regulatory Analyses

We developed this 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 Executive Order 12866. Accordingly, it 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 given advanced notice or that the scheduled openings will provide 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 did not receive any comments from the Small Business Administration on this rule. 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 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 (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.

We did not receive any comments regarding 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. We did not receive any comments regarding the Unfunded Mandates Reform Act of 1995.

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 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.

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 Department of Homeland Security Delegation No. 00170.1. Revision No. 01.3.

■ 2. Revise § 117.635 Keweenaw Waterway to read as follows:

§ 117.635 Keweenaw Waterway.

(a) The draw of the U.S. 41 Bridge, mile 16, shall open on signal, except that:

(1) From April 15 through December 14, between the hours of 7 a.m. and 7 p.m. Monday through Friday, less Federal holidays, the bridge shall open on signal from five minutes before to five minutes after the hour and half hour for vessels. Documented vessels over 300-feet shall not be held at the bridge but will be passed as soon as possible.

(2) From April 15 through December 14 between midnight and 4 a.m. daily, the draw shall be placed in the intermediate position and open on signal if at least 2 hours' notice is given.

(3) From December 15 through April 14 the draw shall open on signal if at least 12 hours' notice is given.

(b) [Reserved]

Jonathan Hickey,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0639]

RIN 1625–AA00

Safety Zone; Grosse Pointe Farms Fireworks, Lake St. Clair, Grosse Pointe Farms, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters within Lake St. Clair in Grosse Pointe Farms, MI. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards during a fireworks event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit.

DATES: This rule is effective from 9:30 p.m. through 10:30 p.m. on September 2, 2023, and in the case of inclement weather from 9:30 p.m. through 10:30 p.m. on September 3, 2023.

ADDRESSES: To view documents mentioned in this preamble as being