



Let's briefly cover the existing Memorandum of Agreement between the Coast Guard and FHWA, which was updated in 2014 superseding the previous MOU between both agencies that had been signed in 1981. The update was necessary given the transfer of the Coast Guard from DOT to DHS back in 2003 as well as to comply with EO 13604, which called for a reduction in the time needed to render a permit decision. That same EO also directed federal agencies to work together and share information, with the understanding that would enhance interagency efficiency by eliminating duplication of effort.

The MOA clarifies that the Coast Guard will determine what constitutes adequate navigation clearances for a bridge project FHWA happens to be involved in as well as establishing our procedural responsibilities. It also outlines agency specific processes and, importantly, calls for a coordinated environmental document if appropriate. The idea behind all of this is to get everybody working on the project playing off the same sheet of music. Out of all the agencies we deal with when it comes to bridge projects, FHWA seems to get the lions share of our attention, so it makes sense the Coast Guard has a liaison who's able to talk directly with FHWA and try to head off any potential problems at the pass.



How is the Coast Guard organized? We're geographically divided into two distinct areas, the Atlantic Area and Pacific Area. Both areas have nine subordinate district commands. Atlantic Area is comprised of five districts while Pacific Area has the remaining four. Our 8th District is a little unusual; given its sheer size, we've subdivided it into two separate District Bridge Offices, one in New Orleans the other in St. Louis. The insert on the lower right-hand corner illustrates the dividing line.

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### Key Messages

Meet with us	
	Meet early with the Coast Guard to discuss application requirements
Develop a timeline	• Develop a project timeline that incorporates permits, reviews and authorizations from all applicable agencies
<b>Use</b> the BPAG	Use the Bridge Permit Application Guide, Application Template and plan sheet checklist on our website
Complete the NIR	<ul> <li>Complete the Navigation Impact Report prior to NEPA scoping so required clearances can be provided and inform alternatives</li> </ul>
Communicate with us	Communicate often with your District Bridge Office

What are some of the big-ticket items we're looking to convey in this presentation?

First, if you're looking at a project that involves a bridge, check with your local District Bridge Office to determine if you're going to need a permit. Don't take anything for granted – you may be dealing with a waterway that's far inland and may not appear to be navigable, but you'll want the Coast Guard to figure that one out for you.

Set up a meeting with the local Coast Guard District Bridge Office early in the process so you can get some solid clarification on our application process and requirements. It's also helpful to get to know these folks because they'll be intimately involved right from the start. It's good to be able to match faces to names – and that applies for us as well.

We've found that it's also helpful to get a project timeline going. This will facilitate communications with not only the Coast Guard, but other permitting agencies as well, allowing everybody to see the big picture and get an accurate idea where the project stands. The Project Manager from the District Bridge Office will be able to help you with this.

On our public website we've uploaded our Bridge Permit Application Guide, which literally walks you through the permit process step by step along with an application template and a checklist for plan sheets. Use it and abuse it and if you have questions, then reach out to us.

Keep in mind that your project may, important word is "may," require preparation of a Navigation Impact Report which should describe the variety of vessel traffic using the waterway within the vicinity of the bridge project in question and what sort of navigational clearances will be required for these same vessels to safety proceed through the opening of the proposed bridge. This should be done either prior to or in the beginning stages of NEPA scoping because the information gleaned from the Navigation Impact Report will inform our Preliminary Navigation Clearance Determination, which in turn will inform the various alternative designs that the Coast Guard will find acceptable.

And above all, talk. Check in with us frequently. I promise, we'll be fine with repeated emails and phone calls. Bottom line, the more issues we can address on the front end means fewer problems we'll have to take care of on the back end. Robust communication is the key.

And now that we've talked about some of the big points we're looking to drive home, let's move on.



 Jurisdiction over 20,000 bridges across navigable waters established by:

- o Bridge Act of 1894, 33 U.S.C. § 499
- Section 9 of the Rivers and Harbors Appropriations Act of March 3, 1899, as amended, 33 U.S.C. § 401
- $_{\odot}$  The Act of March 23, 1906, as amended, 33 U.S.C. § 491
- The General Bridge Act of 1946, as amended, 33 U.S.C. § 525
- $\,\circ\,$  The International Bridge Act of 1972, 33 U.S.C. § 535
- 33 CFR §2.36
  - Territorial Seas of the United States
  - Internal waters of the United States subject to tidal influence
  - Non-tidal waters that have or could be used as highways for interstate or foreign commerce



The bridge program has jurisdiction over more than 20,000 bridges across navigable waters as established by the following Acts:

- Bridge Act of 1894
- Section 9 of the Rivers and Harbors Appropriations Act of March 3, 1899
- The Act of March 23, 1906
- The General Bridge Act of 1946
- and the International Bridge Act of 1972

Now, one thing I want to address is differentiating between Section 9 of the River and Harbors Act and the General Bridge Act of 1946. I know a lot of people outside of the program tend to refer to a Coast Guard Bridge Permit as a "Section 9" permit, but we really derive our primary authority from the General Bridge Act of 1946, which requires our approval to construct or reconstruct a bridge crossing navigable waters of the United States that preserves the public right of navigation while preventing interference with interstate and foreign commerce. That allows us then to satisfy the reasonable needs of navigation while also addressing the needs of land traffic. It's a rare day that we'll refer to Section 9 during any part of the permitting process.

Then there's 33 CFR Section 2 part 36. It's a good idea to reach out to the Coast Guard to determine if the waterway you're looking to build a bridge across is considered navigable. The Coast Guard, in accordance with this passage, considers navigable waters to include the territorial seas of the United States; internal waters of the United States subject to tidal influence; and/or non-tidal waters that have or could be used as highways for interstate or foreign commerce... or could be improved to do so at a reasonable cost. I also want to address a question we've been getting pretty frequently regarding a GIS layer delineating what the Coast Guard considers to be a navigable waterway. Long story short, no, we don't have that yet. It's something we're looking at as a future growth item, but of course a lot of that is contingent upon funding. In the interim, if you have a question about navigability, it's best that you reach out to the applicable District Bridge Office because those are the folks who'll be able to answer your question.



The Coast Guard Bridge Program is a component within the Marine Transportation Directorate, a larger overall team which advocates for maritime commerce. Accordingly, our bottom line is that a bridge crossing any navigable water of the of the United States shall not obstruct the reasonable needs of navigation during any part of the lifecycle of that same bridge including rehabilitation, repair, maintenance and construction while facilitating other modes of transportation. The Coast Guard monitors bridges to ensure bridge lighting, temporary structures, clearance gauges, and bridge protective systems are also in compliance with federal laws and policies. The Coast Guard is also responsible for permitting bridges, prescribing drawbridge operating schedules and managing the alteration of unreasonably obstructive bridges.



And that leads us into the when, where, why and how that underlies the process by which the Coast Guard issues a permit for a bridge to be built.



A Coast Guard Bridge Permit is the official authorization to construct or modify a bridge that crosses a navigable waterway. Any individual, partnership, corporation, or local, state or federal legislative body planning to construct or modify a bridge must apply for a bridge permit. This includes all temporary bridges used for construction access or to detour traffic around the construction zone.

Most bridge repair jobs won't require permit action on the part of the Coast Guard, but that doesn't necessarily hold true if the proposed repair will impact the previously approved navigation clearances or configuration of the bridge, in which case you may need to amend the existing permit.

Another scenario – if there's some kind of natural disaster impacting a bridge, the construction of a temporary bridge can be authorized without a Coast Guard Bridge Permit as a purely emergency measure. The important word to remember is "temporary" and such a measure will last only as long as it takes to restore the existing bridge to full operation. If it's decided that the bridge must be replaced lock, stock and barrel, however, then we're talking a bridge permit. Finally, if it's eventually decided to retain the structure for whatever reason then a permit from the Coast Guard will be required.



So, what do we expect from you if you're looking for a bridge permit? First, grab a hold of us and start a conversation. Give us a good idea of what you're proposing and that'll allow us to look at the waterway and determine if you even need a permit to proceed. Second, presuming you're going to need a permit, ask your Coast Guard Project Manager to walk you through the Bridge Permit Application Guide. If this thing you want to build will require a permit after all, you'll need to gin up a project initiation request which is discussed in further detail in the BPAG. Once we have that letter, we're off to the races.

Your Coast Guard Project Manager will let you know if you need to prepare a Navigation Impact Report. This should be done early in the process, even prior to NEPA scoping. If that's the case, he or she will work with you and let you know what we'll be looking for in the NIR. We'll use data gleaned from the NIR to inform our preparation of the Preliminary Navigation Clearance Determination. The PNCD is important insofar as it will definitively state the minimum horizontal and vertical clearances the Coast Guard will tolerate so as not to impede maritime traffic utilizing the waterway. The PNCD should be used to inform your selection of a preferred NEPA alternative.



When you feel you've accumulated enough information to do so, it'll be time to send a Bridge Permit Application our way. A couple of caveats. We're going to consider this to be the "initial application" which may not necessarily have everything we need to issue a navigation, has enough meat on the conceptual bones that we can get the process started. We'll review the permit application and within 30 days or so you'll get a letter from us noting one of two things, either that it's complete or incomplete. Usually, particularly this early in the process, we'll tell you that it's incomplete, but we'll also let you know what pieces are missing. Some of this stuff you likely won't be able to nail down until later in the process stops of course, things will keep trucking along as you gather additional items necessary to plug holes and keep forward momentum going.

Now, once we've got enough data on hand we can proceed to issuing a public notice. The PN is what it says, a notification that will allow the public at large the opportunity to sort of digest what is being proposed and to furnish feedback to the Coast Guard, all of which is taken into consideration when it comes time to render a permit decision. Generally, most comment periods run for about 30 days. Now, we'll generally want by this stage of the game to know what level of environmental review we're looking at as well as the Lead Federal Agency. We'll also want to know that a Water Quality Certification has at least been applied for. If we're not the Lead Federal navigation, then the Coast Guard will be primarily interested in the effects the proposed bridge may have on waterway navigation, and we'll defer any comments of an environmental nature to the lead. If we're running the entire show though, of course we'll be taking everything into account.

Finally, you've got all your ducks in a row, and you get that letter from the Coast Guard notifying you that the permit application is considered complete! It's at that point that the Coast Guard will begin the process of rendering its final decision. Within the space of about 90 days after you get that final bit of correspondence, you'll have our final permit determination. Again though, that application complete letter is contingent on us having everything in hand, in accordance with requirements noted in the Bridge Permit Application Guide including suitable plan sheets, NEPA documentation, the Water Quality Certification, Coastal Zone Management Act consistency determination as necessary, Section 106 consultations – the list goes on.



Let's talk a little bit about the Bridge Permit Application Guide, or BPAG. The BPAG which was designed from the ground up as a tool you can reference that kind of walks you through the permit application process. We have that guide in addition to a Word-based Bridge Permit Application template on our website. Feel free to scan if you'd like, but you can also find the site by typing "Coast Guard Bridge Program" in Google.

# Navigation Impact Report (NIR)

- Required by the Coast Guard/DOT MOU for all DOT funded projects
- Developed by the applicant and serves to inform the USCG's navigation evaluation and preliminary/final navigational determination
- Examines historic, present and prospective navigation on the waterway
- Helps determine if proposed bridge may unreasonably obstruct navigation
- Contact Corps early on if Section 408 permission is required





Navigation Impact Reports are required under the provisions of a Memorandum of Understanding between the Coast Guard and the Department of Transportation for those projects federally funded through DOT. Appendix A of the BPAG gives the reader a pretty good breakdown of what sort of data we're looking for in a solid Navigation Impact Report. Important note here - it's on the applicant to develop the Navigation Impact Report. A consultant can write the thing, but the responsibility is on the applicant. If there's a roadblock or there are questions then by all means reach out to us, but once again, it'll be the applicant who'll be responsible for the NIR. Kind of oversimplified, the Navigation Impact Report should document not only historic and present waterway usage up and downstream of the site of proposed construction, but projected usage as well, which can be tricky sometimes. That means talking to Metropolitan Planning Organizations or other groups who may have designs on certain portions of waterfront and what they're visualizing in terms of future development. All that stuff must be taken into consideration. Again, the bottom line is we're looking for assurance that the proposed bridge will not unreasonably obstruct waterway navigation. The sooner we can get this thing in hand, the better. The Navigation Impact Report will inform our Preliminary Navigation Clearance Determination which in turn will inform the selection of a preferred alternative during NEPA scoping.

Something that goes hand in hand with the Navigation Impact Report – there are those occasions when a bridge you're looking to build or replace may require review and permission from the Corps of Engineers under 33 USC Section 408. Section 408 applies to those endeavors that may modify, alter or occupy an existing Corps of Engineers constructed public works project. Basically, a 408 analysis determines if the proposal will not be injurious to the public interest or impair the usefulness of the Civil Works project. If the bridge is going to cross a federal navigation channel, then it's a good idea to reach out to the Corps and request a pre-application meeting – and it's an even better idea to make sure the Coast Guard is invited as well. Feedback from the Corps of Engineers will be helpful in terms of influencing preparation of the Navigation Impact Report which will then help to inform our navigation evaluation.



- District Bridge Office (DBO) reviews the NIR, conducts a navigation evaluation, then issues a Preliminary Navigation Clearance Determination (PNCD)
- Defines the minimum clearances favorable to meet the reasonable needs of navigation
- Used by the applicant in the development of NEPA alternatives
- PNCD is valid for 3 years

The permit and approved plan sheets serve as the Final Navigation Clearance Determination



Once we've had an opportunity to digest the NIR, we'll then start work on generating the PNCD. The PNCD will define the minimum navigation clearances the Coast Guard will tolerate that do not unreasonably affect waterway navigation and that guidance should inform your NEPA alternatives. Important note here, the PNCD remains valid for three years. After that point it may be necessary to start the process once again, so something to keep in mind if you're dealing with a complex project with a weird and unpredictable revenue stream. Another note – the "Final Navigation Clearance Determination" consists of the issued permit and the plan sheets that'll bear a Coast Guard approval stamp.

### Bridge Permit Application

#### Administrative Info:

- Application Date
- Applicant info: Agency, Primary POC, street address, telephone number, email address
- Consultant agency info
- Name of the proposed bridge(s)
- Name of waterway
- Number of miles above the mouth of the waterway (statute miles)
- City/town, county and state the bridge will be located







Issuance of a Coast Guard Bridge Permit is a federal action and therefore, whether we like it or not, triggers NEPA. So, right from the get-go we're going to need some information to proceed. First things first, what agency is driving this bus? If it's a highway bridge, more likely than not we're looking at the Federal Highway Administration as the Lead Federal Agency. Railroad bridge, probably FRA or FTA. Bottom line, some agency must be calling the shots. If no federal funding is involved, but a bridge permit is still required, the Coast Guard by default will assume the role as the Lead Federal Agency for NEPA review purposes. On top of identifying the Lead Federal Agency, it's also a good idea to determine who the rest of the players are because as the process moves along, we'll run into a little thing known as "dependencies." By way of oversimplification, a dependency occurs when a pending action by one agency is dependent upon another action taken by a cooperating agency. Whether we like it or not, this sort of kabuki dance is part and parcel of the picture and it's important. Of course, it might be helpful to know what level of environmental review we're looking at. The more complex or large the project, the more important early engagement is, and it would be valuable to develop a Coordinated Project Plan.

### Environmental Laws

- Sections 401 and 404 of the Clean Water Act
- Coastal Zone Management Act
- Endangered Species Act
- Magnuson-Stevens
- Section 106 of the National Historic Preservation Act

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Among the important environmental control must we have to consider for a bridge project, there's Section 401 of the Clean Water Act, meaning that you'll have to furnish us a Water Quality Certification before we can issue a bridge permit. If there's any fill, then you'll also need a Section 404 permit from the Corps of Engineers. If the project lies within an area subject to the Coastal Zone Management Act, then we'll need a CZMA consistency statement from your state certifying agency. The Endangered Species Act comes into play and any impacts to endangered species along with proposed mitigation will have to be fully addressed. Magnuson-Stevens is a big consideration if the bridge you're looking to build may affect a designated essential fish habitat, meaning we'll need to review your list of impacted species, the EFH assessment, along with any discussions you've had with NMFS and proposed mitigation. And finally, although it's not a part of NEPA itself, Section 106 analyses are run concurrent with that process, and you'll be expected to determine the Area of Potential Effect and liaise as necessary with the State Historic Preservation Office and the Tribal Historic Preservation Officer.

As an aside, the procedures through which a Section 401 Water Quality Certification is requested, reviewed and then granted have been updated this past November by the EPA. Bottom line, if the possibility exists that a federal licensed or permitted

activity may result in a discharge for a point source into a water of the United States, then the "project proponent," meaning the applicant, must request a meeting with the appropriate certifying authority at least 30 days before submitting a WQC request. That window should be built into your project assumptions and timeline. The certifying authority will be expected (and must) act on the request for certification within a "reasonable period of time" which shall not exceed one year (as determined by the federal licensing or permitting agency and the certifying authority). So, the more complex a project, the more likely it is that it may require additional study/evaluation of water guality effects from any potential discharge. Once again, this is something you should consider during your planning process and applicants are highly encouraged to apply for a WQC at least a full year before the Coast Guard will require the certification for a complete bridge permit application. Finally, when talking with the WQC certifying agency, be sure to ask if your project will require an individual WQC or could fall under a blanket WQC for each federal permit. Just because you receive a Nationwide Permit from the US Army Corps of Engineers which also provides a blanket WQC from the state does not mean that blanket WQC can be applied to the Coast Guard bridge permit. The certifying agency will be able to help you with that determination. Again, if you have questions then by all means reach out to us.



As I mentioned earlier, those were just a few examples of environmental control laws we must take into consideration when dealing with a bridge permit application. These are just a few more that you'll have to discuss when you shoot us permit application. Now, that comes with the understanding that some may not necessarily apply to your project, but if that's the case, you'll have to note why in the application.





Coast Guard requirements for plan sheets are found in 33 CFR Section 115 part 50. Now, let's make one thing clear, these are not, repeat not construction grade plan sheets we're looking for here. The plan sheets we want will serve as a physical depiction of the characteristics of the bridge approved under the auspices of the permit itself, namely the navigation clearances. Lucky for you, we provide a checklist on our website that you can use to make sure all your bases are covered.



That checklist, referred to as the plan sheet job aid, is available as a fillable template for download from our bridge program website. Your Coast Guard contact should also be able to provide you a copy. Basically, what you see there in the slide covers it. The bottom line to remember is that when you're generating plan sheets for the Coast Guard, try to gear it for Joe Public, particularly because these plan sheets will go out with a Public Notice for the project. Just follow the template and keep in mind the KISS principle and you'll be okay.



Okay, here's an example of what we're looking for. This is an elevation view of a pedestrian bridge over the Bass River in Massachusetts, right by Cape Cod. It depicts the navigational clearances afforded mariners at Mean High Water, Mean Low Water and the 100-year flood elevation. We also require a few other items such as noting the datum used as well as a graphic bar scale. On a plan view we'll want to see a north arrow. And of course, we've got the plan sheet stamped and signed by a Professional Engineer. Why do we want PE's stamping and signing these things if they're not construction grade? Bottom line, we want those navigational clearances verified by someone with the requisite engineering background and professional qualifications.

### What is a Complete Bridge Permit Application?

All the documentation listed in the BPAG provided to the District Bridge Office, including, but not limited to:

- ✓Completed application template
- ✓ Final NEPA documents
- ✓ Completed consultations (MMPA, Migratory Bird, ESA, CZMA, NHPA, etc.)
- ✓ USACE final permit(s)/permissions (Section 404, Section 10, 408)
- ✓ WQC or waiver issued by certifying authority
- Coast Guard approved plan sheets stamped and dated by a PE

When is your application complete? When you've submitted all the materials noted in this slide, you'll get a letter from your assigned Project Manager informing you that the permit application is complete, and the Coast Guard is now on the clock. That means we should render a permit decision within 90 days. Now that doesn't necessarily mean that it'll take the full 90 days – if communication between the applicant and the Coast Guard has been robust from the get-go and potential snags have been headed off at the pass, then you could conceivably see the permit within an abbreviated timeframe.

Of note, it's imperative for us to have any permits or permissions from the Corps in hand before we issue our permit. If there are going to be impacts to wetlands, we'll want to know what sort of mitigation the Corps will prescribe in their Section 404 permit. If there are structures to be placed in the water that will be associated in some manner with the larger overall project, then we'll want to be assured that a Section 10 permit has been issued authorizing the same. And importantly, if a bridge project will cross a federal navigation channel or any waters administered and thereby falling under Corps jurisdiction, then we'll want to make sure the 408 permission has been addressed well in advance because Corps requirements will ideally influence our Preliminary Navigation Clearance Determination. Literally every bridge project we deal with will invariably involve the Corps in one way or the other, so we'll want to make especially certain that the interagency lines of communication are open and we're talking as early and as frequently as possible.



And time to discuss the latest craze in the engineering universe, design-build. If you've got a project that's a DB candidate, then definitely start chatting up your assigned Project Manager at the District Bridge Office. We'll want to make sure that our permit and navigational clearance requirements are included in the RFP. They're going to have to be baked in from the start. The important thing to remember is that yes, design-build takes for granted that there may be design changes as the project progresses, but those navigational clearances are sacrosanct. If you want a change then you'll need to talk to us, but far better to solve issues on the front end and take every eventuality into account.





Navigation Clearances in Preliminary Design

Now, we understand that the design concept you're going to send our way may be only at the 30% to 40% stage and that's fine! The idea is to lock in those navigation clearances for the RFP. If you need to generate a Navigation Impact Report, then far better to get it done ASAP, way before you start thinking about the RFP. Wait on our Preliminary Navigation Clearance Determination and then we can go from there. Bottom line, keep the lines of communication open and ensure the Coast Guard is apprised, particularly if it appears as if the final design may impact the previously agreed upon navigation clearances.



There are plenty of variables involved in the process of nailing down a Coast Guard Bridge permit, most of which involve interagency coordination. I alluded to it previously in this presentation, but let's talk a bit about the tool the Coast Guard uses to keep ourselves and cooperating agencies on the straight and narrow and that's the permitting timetable. This is something that the lead, cooperating and participating agencies should work together to develop based on milestones for their actions, which leads to dependencies. As I mentioned previously, a dependency occurs when one agency action is dependent upon an action taken by another agency to proceed. For example, we can't issue our Preliminary Navigation Clearance Determination until the applicant has furnished us a Navigation Impact Report. We can't issue our permit until we have a Water Quality Certification in hand. Lots of moving pieces obviously. So, we've found that a timetable helps enormously in terms of mitigating the impacts of those dependencies and ensuring that all agencies are singing off the same sheet of music. Also, if the project in question is listed on the Federal Permitting Dashboard, then use of a timetable is mandatory.

While there are no prescribed formats for a timetable, meaning you can use Word or Excel at your discretion, the bottom line is a good timeline will identify key interagency milestones. It should also readily identify all project requirements and

ensure stakeholders are again working off the same page. And finally, if there has been a common theme I've been emphasizing, it requires early and frequent interagency coordination.



23 USC 144(c)(2), or more commonly referred to as simply 144(c). Bottom line, no bridge permits will be required for a proposed bridge to be built across a waterway that is tidal, but used only by recreational vessels less than 21 feet in length and/or are not used nor susceptible to use in the natural condition of the waterway or by reasonable improvement as a means to transport interstate or foreign commerce. Now, important difference here - if the waterway you're looking to construct a bridge across is **non-tidal** and meets all the other above criteria noted - that is - used only by recreational vessels less than 21 feet in length and not susceptible to use by the condition of the waterway or by reasonable improvement as a means to transport interstate in length and not susceptible to use by the condition of the waterway or by reasonable improvement as a means to transport interstate or foreign commerce, then the Coast Guard may elect to **not exercise jurisdiction**, meaning that we'll have no further involvement in the process. That determination will be at the discretion of the District Bridge Manager and he or she will confirm that final decision with written correspondence.

The trick to 144(c) is that FHWA will make that initial determination, but the Coast Guard, by law, will have a, quote "informative and persuasive role in the determination process," unquote. In other words, it's up to the Coast Guard to either agree with the FHWA determination or disagree, along with substantive reasons as to why the Coast Guard will require a permit for the project to proceed. We have a checklist and decision tool available for use on our website that almost resembles a mini bridge permit application that walks you through and expedites the process.



This is the 144(c) checklist. FHWA doesn't necessarily need to complete the form. It can be filled out at the state level DOT folks, but it must be submitted to the Coast Guard by FHWA. That means they should have a pretty good idea as to what's being asked for. You can find the checklist on our website under "permit exemption decision tool."

Some preliminaries we'll be looking for. Name of the waterway obviously. We'll ask if it's navigable in accordance with 33 CFR Section 2 Part 36. We'll also be looking for the milepoint where you're looking to build this thing, measured in statute miles, not nautical. Also, if there's a bridge there already, was it permitted, either by the Coast Guard or Army Corps? Finally, you'll need to figure out the type and variety of vessel traffic utilizing the waterway, keeping in mind the previous stuff I talked about, like recreational traffic under 21 feet in length, reasonable improvement, etcetera.



## Atlantic Avenue Bridge over Little Harbor Inlet

Let's go to Massachusetts! There's a town out there named Cohasset, just south of Boston. Lots of little cool beach places that are nice to visit during the summer. Winter not so much. Anyway, here we've got the Cunningham Bridge, otherwise referred to as the Atlantic Avenue Bridge constructed over Little Harbor Inlet. Apparently, some folks decided that the bridge in its present incarnation is structurally deficient, and it was time to replace the thing with a new 87-foot-long single span structure. Now, I think we can answer one question right off the bat – this thing is located right by the ocean, so definitely tidal.



We've already determined that the bridge is in fact located over tidal waters, so we follow that "yes" line to the next block which asks if the waterway used only by small vessels like recreational boats, fishing boats or other small vessels less than 21 feet in length. Fact is that what you saw in the preceding picture kind of typifies traffic on this waterway – paddleboarders and maybe a kayaker or two. Also, no navigation lighting rigged, so that's a pretty good indication that there are no major vessels transiting through the bridge. So, we keep following that yes line to the next block that asks if the bridge is located over waters that are used or susceptible for use for interstate or foreign commerce. The answer to that one is a definitive no. Bottom line then, it qualifies as an exemption under 144(c).



Let's discuss another example. Out in Idaho there's a bridge called the Stoddard Pack Bridge across the Salmon River in the Salmon National Forest. Without bringing up a map depicting the entire Pacific Northwest, suffice it to say that it's located well inland. In its previous incarnation, the Stoddard Pack bridge was built for pedestrian use as well as for pack animals. It's also a vital access point into the Frank Church River of No Return Wilderness. Unfortunately, however, there was a rockslide in May of 2018 that wound up destroying the south tower of the bridge. So, folks wanted to rebuild it, but this time as an asymmetric suspension bridge by using the existing north tower while shifting the south tower approximately 150 feet downstream to provide protection from future rock falls. The question was whether this reconstruction effort would require a permit from the Coast Guard or would be exempt until 144(c).



Let's go to the flowchart. First things first, we wanted to know if the bridge to be built or replaced was located over tidal waters. In this case, the answer was "no." Non-tidal. Tracing that "no," we come to the next box which asks us if the bridge located over waters that are used or susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce. Although the waterway is located far inland and is non-tidal, this one may surprise you. The Salmon River is a tributary to the Snake River, which lies on the border between Oregon and Idaho. Jet boats often take passengers for hire between the Snake and Salmon Rivers and that constitutes interstate commerce. So, in this case, as weird as it may seem, 144(c) did not apply and a bridge permit was necessary.



And we recently dealt with a 144(c) request for the Rayon Drive Bridge across the Jackson River in Covington, Virginia, located in the George Washington and Jefferson National Forest, about a stones throw away from West Virginia. The existing bridge is located approximately 17.5 miles upstream from the confluence of the James and Jackson Rivers and is not tidally influenced. In fact, the waterway is dammed upstream of the bridge and there is no lock installed that will allow vessel traffic to proceed any further along the waterway which eventually tapers into not much more than a creek. There was some question with both Virginia DOT as well as FHWA though as to whether a permit would be required for a replacement bridge. Let's walk through our flowchart one more time.



We've concluded the waterway is not tidally influenced, so following the "no" line, we're going to ask if the bridge to be replaced is located over waters that are used or susceptible for use for interstate or foreign commerce. In this case, no. The Jackson River is transited largely by nothing larger than canoes, kayaks and perhaps a small recreational fishing boat or two, but that's it. Nor are there any berthing facilities located along the length of the waterway suitable for the servicing of larger vessels. We follow that next "no" line and we finally determine that the Coast Guard will elect to not exercise jurisdiction. For our purposes, the Coast Guard Bridge Program.



33 CFR 115.70 states succinctly that a navigable waterway may be considered Advance Approval when it's navigated by nothing more than logs, log rafts, rowboats, canoes and small motorboats. Note what I just said – the waterway is Advance Approval. So, if you're looking to construct or replace a bridge that crosses an Advance Approval waterway, then the Coast Guard isn't going to require a permit. We often go this route if FHWA isn't involved, meaning no 144(c) option. Now, that said, while a permit may not be required, we're still maintaining some level of jurisdiction, so we'll want to make sure that the bridge will allow the type and variety of vessels using the waterway to proceed through the opening of the bridge at the high tidal stage and we may at our discretion require navigation lighting. But for the most part Advance Approval is pretty cut and dried. Talk with the District Bridge Office, best way of figuring it all out.