**Marc Frutiger, PE, PTOE**

**Section 9 of the Rivers and Harbors Appropriation Act of 1899**

**Summary**

Many federal laws and statues govern the construction and maintenance of bridges. Key among them is the Rivers and Harbors Appropriation Act of 1899 (RHAA), considered the oldest federal environmental law. The act is part of a long list of waterbody legislation and appropriations dating back to 1824. Section 9 of the RHAA prohibits the construction of any bridge, dam, dike or causeway over or in navigable waterways unless permitted. The purpose of the RHAA is to preserve the public right of navigation and to prevent interference with interstate and foreign commerce.

Permitting authority under the RHAA was originally the responsibility of the United States Army Corps of Engineers (USACE). In 1967, this authority was transferred from the USACE to the United States Coast Guard (USCG) within the Department of Transportation. In 2003, the USCG became an agency of the Department of Homeland Security.

The USCG is responsible for approval of the location and plans of bridges and causeways constructed across navigable waters of the United States. In addition, the USCG is responsible for approval of the location and plans of international bridges and the alteration of bridges found to obstruct navigation. The USCG Bridge Program carries out this responsibility through four functional areas:

* Permitting – issuing permits for construction or alteration of bridges over navigable waters.
* Regulation – ensuring the operation of movable bridges meet the needs of navigation, and that all bridges are properly marked and illuminated to facilitate safe passage of ships.
* Monitoring construction/maintenance/repair operations – coordinate waterway activities to ensure minimal impact to navigation.
* Alteration – identifying bridges that are “unreasonable obstructions to navigation” and ensuring that unused/abandoned bridges are removed.

**Permit Name**

The permit is generally referred to as a “Bridge Permit”, issued by the responsible USCG District Commander.

**Applicability**

The USCG is responsible for approximately 20,000 bridges in the US. The main criteria are whether the bridge crosses navigable waters, defined in 33 CFR 2.36 as follows:

* Territorial seas of the United States;
* Internal waters of the US subject to tidal influence; and
* Internal waters of the US not subject to tidal influence that:
	+ Are used as highways for substantial interstate or foreign commerce; or
	+ Waterway determined to be capable of improvement at a reasonable cost to provide as highways for substantial interstate or foreign commerce.

In Alaska, the USCG considers 88 separate waterbodies as navigable. However, if a waterbody is not identified as navigable, the applicant is encouraged to contact the USCG for a navigability determination.

**Processing Times**

Typical processing time is unknown. For a recent example project, Wood River Bridge, it took 27 months from initial application until permit issuance.

**Agency Coordination**

The USCG is divided into two areas and nine districts. District 17 is responsible for Alaska. The contact information is below.

Mr. Clinton Scott
Commander, Seventeenth

Coast Guard District (dpw)
P. O. Box 25517
Juneau, AK 99802-5517
907-463-2276
Clinton.L.Scott@uscg.mil

**Consultation Process**

The USCG is consulted during the preparation of the NEPA document. They will provide a navigability determination. If the subject waterbody is considered navigable, then the USCG will specify the clearance envelope that must be maintained, as well as other required features such as fenders or lights. These items will become environmental commitments.

During the permitting process, the USCG will publish a public notice and solicit input from mariners.

**Information Necessary:**

What does the agency need from you?

* Contact info
* Location of proposed bridge
* Bridge details (drawings)
* Legal authority to build bridge
* Clearance envelope
* Information on temporary bridge(s)
* Waterway data
* Environmental document

Who/How do you get that information?

For DOT&PF projects, the necessary information would be available during project development. As with most permits, it makes sense to wait until the 95% design before applying.

**Special definitions**

Not applicable.

**Enforcement and Penalties**

Enforcement is conducted by the responsible USCG District. Violators are guilty of a misdemeanor, and on conviction could be punished by a fine as high as $2,500, or by imprisonment not exceeding one year, or by both.

**REGULATIONS (CFR)**

33 CFR 114- General

33 CFR 115 - Bridge Location and Clearances, Administrative Procedures

33 CFR 116 - Alteration of Unreasonably Obstructive Bridges

33 CFR 117- Drawbridge Operation Regulations

33 CFR 118- Bridge Lighting and Other Signals

**Other Resources**

USCG: https://www.dco.uscg.mil/Office-of-Bridge-Programs/

DOT&PF: http://dot.alaska.gov/stwddes/desenviron/resources/waters.shtml