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9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-1006]

RIN 1625-AA09

Drawbridge Operation Regulation; Connecticut River, East Haddam, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Route 82 Bridge (East Haddam Swing Bridge) across the Connecticut River, mile 16.8, at East Haddam, Connecticut. The Connecticut Department of Transportation submitted a request to reduce scheduled openings of the span for recreational vessels during the boating season and to allow the bridge owner to require six hours notice for bridge openings at night during the winter season. It is expected this change to the regulations will better serve the needs of the community while still continuing to satisfy the reasonable needs of navigation.

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-2016-1006. 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 Mr. James Moore, Project Officer, First Coast Guard District, telephone 212-514-4334, James.M.Moore2@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On March 1, 2017, we published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulation; Connecticut River, East Haddam, CT” in the Federal Register (82 FR 12185). We received 16 comments on this rule which will be discussed in Section IV. Prior to publication of the NPRM, a public meeting was held on April 12, 2016 and no objections were raised to the proposed modification of the regulation governing operation of the bridge.

III. Legal Authority and Need for Rule

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

The Route 82 Bridge (East Haddam Swing Bridge), mile 16.8, across the Connecticut River at East Haddam, Connecticut, offers mariners a vertical clearance of 22 feet at Mean High Water and 25 feet at Mean Low Water when the span is in the closed position. Vertical clearance is unlimited when the span is open. Horizontal clearance is 200 feet. Waterway users include recreational and commercial vessels including tugboat/barge combinations as

well as tour/dinner boats. The drawbridge operating regulations are listed at 33 CFR 117.205(c).

The owner of the bridge, the Connecticut Department of Transportation, requested a change to the drawbridge operating regulation because of the increased volume of vehicular traffic across the bridge during peak commuting hours. This increased volume coupled with bridge openings for recreational vessels on the hour as well as the half-hour has resulted in lengthy traffic jams on either side of the bridge, particularly during the morning and evening rush hours. By reducing required openings for recreational vessels, traffic congestion at peak rush hours will dissipate. The Connecticut Department of Transportation also requested that from November 1 to April 30, vessels be required to provide at least six hours of notice for bridge openings between 8 p.m. and 4 a.m. For the last three years there have been no requested openings between these hours during this time of year. Allowing the bridge owner to require such notice will allow for more efficient and economical operation of the bridge.

The Coast Guard believes this change balances the needs of both land-based and marine traffic. The change will enhance vehicular traffic flow without significantly impacting vessel traffic.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard received a total of 16 comments in response to the notice of proposed rulemaking. All comments positively endorsed the proposed regulation change and no objections were noted. As a result, no changes have been made to this final rule.

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, and we discuss First Amendment rights of protesters.

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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. 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.

The Coast Guard has determined this rule is not a significant regulatory action. The bridge will still open on the hour from 6 a.m. to 8 p.m. for recreational craft during the boating season and will open for all vessels with six hours of advance notice between 8 p.m. and 4 a.m. between November 1 and April 30. The minimum 22 foot vertical clearance available at Mean High Water when the bridge is in the closed position is sufficient to allow a majority of recreational traffic to pass without the necessity for an opening. Moreover, the advance notice requirements will be imposed during evening hours over the course of the winter, during which time vessel traffic is infrequent.

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 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 (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.

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.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1 (series), 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 preliminary 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. Normally such actions are categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction. A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from 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. Amend § 117.205 by revising paragraph (c) to read as follows:

§ 117.205 Connecticut River.

* * * * *

(c) The draw of the Route 82 Bridge, mile 16.8, at East Haddam, shall operate as follows:

(1) *From May 1 through October 31*: The draw shall open on signal for commercial vessels. For recreational vessels, the draw shall open on signal, except that from 6 a.m. to 8 p.m., the draw need open for recreational vessels on the hour only.

(2) *From November 1 through April 30*: The draw shall open on signal for all vessels, except that from 8 p.m. to 4 a.m., the draw shall open on signal if at least six-hours notice is given by calling the number posted at the bridge.

Dated: June 30, 2017

S. D. Poulin

Rear Admiral, U. S. Coast Guard

Commander, First Coast Guard District

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