



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: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify 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 bridge owner submitted a request to reduce scheduled openings of the span for recreational vessels in the boating season and to allow the bridge owner to require six hours notice for bridge openings at night in the winter season. It is expected this change to the regulations will better serve the needs of the community while continuing to meet the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before [Insert date 60 days after date of

publication in the FEDERAL REGISTER]].

ADDRESSES: You may submit comments identified by docket number USCG-2016-1006 using the Federal eRulemaking Portal at <http://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 proposed 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
FR	<u>Federal Register</u>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

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 draw 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 existing drawbridge operating regulation, 33 CFR §117.205 (c), requires the draw of the Route 82 Bridge to open as follows:

The bridge will open on signal except that, from 15 May to 31 October, between 9 a.m. to 9 p.m., the draw need open for recreational vessels on the hour and half-hour only. The draw shall open on signal for commercial vessels at all times.

This regulation has been in effect since March 2, 1998. The owner of the bridge, the Connecticut Department of Transportation, requested a change to the drawbridge operating regulations 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 during the morning and evening rush hours would improve.

The Connecticut Department of Transportation also

requested that from November 1 to April 30 the bridge owner be allowed to require at least six hours notice for bridge openings between 8 p.m. and 4 a.m. for all vessels. For the last three years there have been no requested openings during these hours during this time of the year. Allowing the bridge owner to require notice will allow for more efficient and economical operation of the bridge.

III. Discussion of Proposed Rule

Comments received from the public as well as various stakeholders during a meeting held in East Haddam, Connecticut on 12 May 2016 indicated no objection to the proposed rule change from either mariners or concerned citizens. Based on these comments as well as further discussion with the bridge owner, the Coast Guard proposes to permanently change the drawbridge operating regulation 33 CFR §117.205(c).

The proposed rule would allow the Route 82 Swing Bridge, to open as follows: Between November 1 and April 30, the Route 82 Swing Bridge will continue to open on signal for all vessels between 4 a.m. and 8 p.m. and will open for all vessels with six hours of advance notice between 8 p.m. and 4 a.m. Between May 1 and October 31, the bridge will open for recreational vessels on the hour between 6 a.m. and 8 p.m. and will open on signal from 8

p.m. through 6 a.m.. Notice is given by calling the number posted at the bridge.

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 and we discuss First Amendment rights of protestors.

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 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.

The Coast Guard believes that 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 22 foot vertical clearance available while the bridge is in the closed position is sufficient to allow a majority of recreational traffic to pass through the draw without the necessity for an opening. Moreover, the advanced notice requirements will be during the winter months, which is a time of year when vessel traffic is at its lowest.

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.

For the reasons stated in Section III and 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 (Public Law 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, above. 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 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 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 above.

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 proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, 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 proposed 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.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination 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 proposed 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.

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.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have

provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086).

Documents mentioned in this notice and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. 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.

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; 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: 15 February 2017

S. D. Poulin

Rear Admiral, U.S. Coast Guard

Commander, First Coast Guard District

[FR Doc. 2017-03980 Filed: 2/28/2017 8:45 am; Publication Date: 3/1/2017]