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9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2022-0519]

RIN 1625-AA09

Drawbridge Operation Regulation; Housatonic River, Stratford, CT

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is altering the operating schedule that governs the Metro-North (Devon) Bridge, across the Housatonic River, mile 3.9, at Stratford, CT. The bridge owner, Metro-North (MNR), submitted a request on May 5, 2022 to modify the regulation by aligning with the Metro-North "WALK" Bridge train schedule and avoid bridge openings during peak transit hours. It is expected that this change to the regulations will better serve the needs of the community while continuing to meet 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 https://www.regulations.gov. Type the docket number (USCG-2022-0519) 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 e-mail Ms. Stephanie E. Lopez, First Coast Guard District, Project Officer, telephone 212-514-4335, email Stephanie.E.Lopez@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	**Federal Register**
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code
MNR	Metro North Railroad

II. Background Information and Regulatory History

On January 27, 2023, the Coast Guard published an NPRM, with a request for comments, entitled "Drawbridge Operation Regulation; Housatonic River, Stratford, CT" in the **Federal Register** (88 FR 5293). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended February 27, 2023, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under 33 U.S.C. 499. The Metro-North (Devon) Bridge at mile 3.9, across the Housatonic River, Stratford, CT, has a vertical clearance of 19 feet at mean high water and a horizontal clearance of approximately 83 feet. Waterway users include recreational and commercial vessels, including fishing vessels.

The existing drawbridge operating regulations are listed at 33 CFR 117.207(b). MNR is requesting the modification of the requirements in 33 CFR Part 117.207 to align with the existing requirements for the Metro-North "WALK" Bridge, across the Norwalk River, at mile 0.1.

The Devon Bridge is located at one of the busiest rail segments in the United States and the Northeast Corridor. Openings at Devon Bridge, between the calendar years of 2019 and 2021, resulted in twenty-one (21) delays to MNR train service. A delay due to a bridge opening has cascading affects, resulting in multiple delayed and late trains. Delays due to the openings of Devon Bridge were notably high among the drawbridges

on MNR service territory. Aligning the Devon Bridge regulation with the WALK Bridge regulation 33 CFR 117.217(b), provides a balance between railroad operations and the interest of waterway users.

IV. Discussion of Comments, Changes, and the Final Rule

The Coast Guard provided a comment period of 30 days and no comments were received.

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 section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability of vessels to still transit the bridge given advanced notice.

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 (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.

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.

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, Table3-1 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 DHS Delegation No. 00170.1, Revision No. 01.3.

2. Revise § 117.207 paragraph (b) to read as follows:

§ 117.207 Housatonic River.

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(b) The draw of the Metro-North (Devon) bridge, mile 3.9 at Stratford, shall operate as follows:

(1) The draw shall open on signal between 4:30 a.m. and 9 p.m. after at least a two-hour advance notice is given; except that, from 5:45 a.m. through 9:45 a.m. and from 4 p.m. through 8 p.m., Monday through Friday excluding holidays, the draw need not open for the passage of vessel traffic unless an emergency exists.

(2) From 9 p.m. through 4:30 a.m. the draw shall open on signal after at least a four-hour advance notice is given.

(3) A delay in opening the draw not to exceed 10 minutes may occur when a train scheduled to cross the bridge without stopping has entered the drawbridge lock.

(4) Requests for bridge openings may be made by calling the bridge via marine radio VHF FM Channel 13 or the telephone number posted at the bridge.

Dated: December 13, 2023.

J. W. Mauger,
Rear Admiral, U.S. Coast Guard,

Commander, First Coast Guard District.

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