

33 CFR Part 117

[CGD01-95-008]

RIN 2115-AE47

Drawbridge Operation Regulations; Apponagansett River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the rules governing opening of the Padanaram Bridge at mile 1.0 over the Apponagansett River in Dartmouth, Massachusetts. This final rule will allow the Padanaram Bridge to open on signal from 1 May through 31 October, once an hour on the hour, between 9 a.m. and 8 p.m. instead of twice an hour on the hour and half hour. This change should help relieve traffic congestion created when the bridge opens and still provide for the needs of navigation.

EFFECTIVE DATE: June 1, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for copying and inspection at the first Coast Guard District, Bridge Branch office located in the Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110-3350, room 628, between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223-8364.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Bridge Administrator, First Coast Guard District (212) 668-7170.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal persons involved in drafting this final rule are Mr. John W. McDonald, Project Officer, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Regulatory History

Prior to this rule, this bridge has been the subject of three deviations from its operating regulations. The first deviation for 60 days was published in the **Federal Register** at 58 FR 38056; July 15, 1993. The second deviation for 32 days was published in the **Federal Register** at 58 FR 47067; September 7, 1993. The third deviation for 90 days was published in the **Federal Register** at 59 FR 31931; June 21, 1994.

On February 8, 1995 the Coast Guard published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; Apponagansett River, Massachusetts" in the **Federal Register** 60 FR 10815. The Coast Guard

received one letter commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Padanaram Bridge over the Apponagansett River between Dartmouth and South Dartmouth has a vertical clearance of 9' above mean high water (MHW) and 12' above mean low water (MLW).

The current operating regulations require that the bridge open on signal on the hour and half hour, 5 a.m. to 9 p.m., 1 May through 31 October. At all other times at least six hours advance notice must be given.

In the spring of 1993, the Town of Dartmouth requested a change from the operating regulations to permit opening once an hour rather than twice an hour. The town selectmen felt that the traffic congestion during peak summer months was a result of the bridge opening every 30 minutes and was causing village commerce to suffer. The selectmen also considered the 30 minute opening schedule a serious risk to public safety because emergency vehicles could not travel to and from South Dartmouth during the traffic delays caused by the bridge opening every half hour. The Town of Dartmouth requested that the bridge be required to open only once an hour between 5 a.m. and 9 p.m. for a test period of 60 days to evaluate the effects on vehicular and marine traffic. This request was approved and the first deviation from the permanent regulations was effective from July 1, 1993, through August 29, 1993, and was published in the **Federal Register** at 58 FR 38056; July 15, 1993. It provided an opportunity to evaluate the effects of the hourly openings on marine and vehicular traffic. The Coast Guard implemented a second deviation for 32 days to evaluate a different alternative opening time period for the Padanaram Bridge. This deviation also was published in the **Federal Register** at 58 FR 47067; September 7, 1993. The second deviation added two time periods when the bridge could still open on the hour and half hour: between 5 a.m. and 9 a.m. and between 8 p.m. and 9 p.m. The Coast Guard received 29 letters commenting on the two deviations. Twenty were in favor of the hourly openings and nine were opposed to the change. Most of the letters in opposition indicated that the lack of facilities to tie up vessels while waiting for openings was a main concern. The Town of Dartmouth installed traffic signals, automatic traffic gates, navigational lights and clearance gauges after the two deviation periods expired.

The Coast Guard authorized a third deviation for a period of 90 days to evaluate the effects of the above improvements to the bridge. This third deviation was effective from June 3, 1994 through August 31, 1994. It allowed the Padanaram Bridge to open on signal on the hour and half hour between 5 a.m. to 9 a.m. and between 8 p.m. and 9 p.m. and once an hour on the hour between 9 a.m. and 8 p.m. The Coast Guard received two letters commenting on the third deviation. One letter favored the hourly openings and one letter was opposed to the hourly openings. The entire regulation is being revised for clarity and to remove paragraph (a)(1) which provides for openings for public vessels, vessels used for safety, and vessels in distress. This requirement is now provided under 33 CFR 117.31 as a general operating regulation for all bridges.

The bridge owner will be required by this rule to maintain clearance gauges at the bridge to assist mariners during times that the bridge is not crewed and to reduce unnecessary openings.

The bridge owners will also be required, as a result of comments from mariners, to maintain mooring facilities for vessels to make fast while waiting for bridge openings.

Discussion of Comments and Changes

One comment letter was received in opposition to the proposed rule; however, a petition was submitted to the Coast Guard with hundreds of names and signatures all in favor of the change to the regulations. No changes to the proposed rule have been made.

In order to allow the bridge to begin the new operating hours for the summer season, the Coast Guard is making this rule effective on June 1, 1995 and under 5 USC § 553(d)(3), in the interest of public safety and to provide relief from the traffic delays that occur during the summer season this rule may be made effective in less than 30 days after publication. Traffic delays could impede emergency vehicles from traveling between Dartmouth and South Dartmouth during the tourist season.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard

expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulation will not prevent mariners from passing through the Padanaram Bridge, but will only require mariners to plan their transits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 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; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued

under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.587 is revised to read as follows:

§ 117.587 Apponagansett River.

(a) The draw of the Padanaram Bridge mile 1.0 shall open on signal 1 May through 31 October from 5 a.m. to 9 p.m. daily as follows:

(1) The bridge shall open on signal, twice an hour, on the hour and the half hour between 5 a.m. and 9 a.m. and between 8 p.m. and 9 p.m.

(2) The bridge shall open on signal, once an hour, on the hour between 9 a.m. and 8 p.m.

(b) At all other times the bridge shall open if at least four (4) hours advance notice is given.

(c) The owners of this bridge shall provide and maintain mooring facilities for vessels to make fast while waiting for the bridge to open.

(d) The owners of this bridge shall provide and keep in good legible condition, clearance gauges for each draw with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of section 118.160 of this chapter.

3. Appendix A to Part 117 is amended to add the Apponagansett River entry under the State of Massachusetts subheading to read as follows:

APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
* * *	*	*	*	*	*	*
Massachusetts						
* * *	*	*	*	*	*	*
Apponagansett River 1.0 Dartmouth	Padanaram, Dartmouth	13	13
* * *	*	*	*	*	*	*

Dated: May 15, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

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33 CFR Part 165

[COTP Paducah 95-002]

RIN 2115-AA97

Safety Zone; Upper Mississippi River Mile 00.0 to 055.3

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Upper Mississippi River from mile 00.0 to 55.3. This regulation is needed to control vessel traffic in the regulated area to prevent further wake damage to levees and property along the river. The regulations will restrict general navigation in the regulated areas for the safety of vessel traffic and the protection of life and property along the river.

EFFECTIVE DATES: This regulation becomes effective at 11:30 a.m. on May 21, 1995 and terminates at 8 p.m. on June 30, 1995.

FOR FURTHER INFORMATION CONTACT:

LTJG Patrick S. Reilly, Operations Officer, Captain of the Port, Paducah, Kentucky at (502) 442-1621.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Upper Mississippi River and its tributaries have been suffering from high water conditions for a week. This has contributed to unusually wet conditions resulting in the softening of the earth levees which protect the adjacent lowlands. The recent rainfall over the Midwest region has pushed rivers above the flood stage, setting