

Original amendment submission date	Date of final publication	Citation/description
August 19, 2005	January 31, 2006	IAC 27C40.41(3) and 40.41(4).

■ 3. Amend § 915.16 as follows:

- a. Revise the section heading to read as set forth below; and
- b. Remove and reserve the text, in its entirety, of the section.

§ 915.16 Required program amendments. [Reserved]

[FR Doc. 06-881 Filed 1-30-05; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05-05-102]

RIN 1625-AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Cape Fear River, and Northeast Cape Fear River, NC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations of three North Carolina Department of Transportation (NCDOT) bridges: The S.R. 74 Bridge, across the AICW mile 283.1 at Wrightsville Beach; the Cape Fear River Memorial Bridge, mile 26.8, at Wilmington; and the Isabel S. Holmes (US 117) Bridge, at mile 1.0, across Northeast Cape Fear River at Wilmington, North Carolina. This rule will allow the bridges to remain in the closed position at particular dates and times to accommodate road races, marathons and triathlons. Vessels that can pass under the bridges without a bridge opening may do so at all times.

DATES: This rule is effective March 17, 2006.

ADDRESSES: The Fifth Coast Guard District maintains the docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in docket, are part of docket CGD05-05-102 and are available for inspection or copying at the Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, Virginia 23703-5004, between 8 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6629.

SUPPLEMENTARY INFORMATION:

Regulatory History

On October 3, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Cape Fear River, and Northeast Cape Fear River, NC" in the **Federal Register** (70 FR 57524). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

On behalf of the Young Men's Christian Association (YMCA), NCDOT requested changes to the operating drawbridge regulations to accommodate the Tri-Span Run, Battleship Half Marathon, and Triathlon Run. The races are annual events sponsored by the YMCA, attracting spectators and participants from the surrounding cities and states.

In accordance with 33 CFR 117.37(a) for reasons of public safety or for public functions, the District Commander may authorize the opening and closing of a drawbridge for a specified period of time.

NCDOT, who owns and operates the S.R. 74 Bridge across the AICW mile 283.1 at Wrightsville Beach; the Cape Fear River Memorial Bridge mile 26.8 across the Cape Fear River, at Wilmington, North Carolina; and the Isabel S. Holmes Bridge mile 1.0 (U.S. 117, across Northeast Cape Fear River at Wilmington, North Carolina), requested the following drawbridge changes:

Atlantic Intracoastal Waterway

The S.R. 74 Bridge, at AICW mile 283.1 at Wrightsville Beach, has a vertical clearance of 20 feet at mean high water and 24 feet at mean low water in the closed position to vessels. The existing operating regulations are set out in 33 CFR 117.821(a)(5).

A Triathlon race is held on the third Saturday in September of every year with the fourth Saturday used as the alternate day. To facilitate the race, the bridge will be maintained in the closed-to-navigation position from 7 a.m. to 11

a.m. on the third or fourth Saturday in September of every year.

Cape Fear River

The Cape Fear Memorial Bridge mile 26.8, in Wilmington, has a vertical clearance of 65 feet at mean high water and 68 feet at mean low water in the closed position to vessels. The existing regulation is listed at 33 CFR 117.5, which requires the bridge to open on signal.

Both races, the Tri-Span run and the Battlefield Half Marathon, cross the Cape Fear River Memorial Bridge in Wilmington. The Tri-Span run is held on the second Saturday of July. To facilitate the race, the bridge will be maintained in the closed-to-navigation position from 8 a.m. to 10 a.m. on the second Saturday of July of every year.

The Battleship Half Marathon is held on the second Sunday of November. To facilitate the marathon, the bridge will be maintained in the closed-to-navigation position from 7 a.m. to 11 a.m. on the second Sunday of November of every year.

Northeast Cape Fear River

The Isabel S. Holmes Bridge, U.S. 17, SR 133 at mile 1.0, in Wilmington has a vertical clearance of 26 feet at mean high water and 30 feet at mean low water in the closed position to vessels. The existing regulation is listed at 33 CFR 117.829.

Both races, the Tri-Span run and the Battlefield Half Marathon, cross the Isabel S. Holmes Memorial Bridge in Wilmington. The Tri-Span run is held on the second Saturday of July. To facilitate the race, the bridge will be maintained in the closed-to-navigation position from 8 a.m. to 10 a.m. on the second Saturday of July of every year.

The Battleship Half Marathon is held on the second Sunday of November of every year. To facilitate the marathon, the bridge will be maintained in the closed-to-navigation position from 7 a.m. to 11 a.m. on the second Sunday of November of every year.

The Coast Guard believes that the proposed changes are reasonable due to the short duration that the drawbridges will be maintained in the closed position to vessels, because these events have been observed in past years with little or no impact to marine or vehicular traffic. It is also a necessary measure to facilitate public safety that

allows for the orderly movement of participants and vehicular traffic before, during and after the races.

Atlantic Intracoastal Waterway

This rule amends 33 CFR 117.821 by revising paragraph (a)(5), which details the operating regulations for the S.R. 74 Bridge.

Paragraph § 117.821(a)(5) will be amended to allow the S.R. 74 Bridge to remain in the closed position from 7 a.m. to 11 a.m. on the third and fourth Saturday in September of every year.

Neuse River

Section 117.823 Neuse River will be redesignated at § 117.824 to allow alphabetical placement and codification of Cape Fear River at § 117.823.

Cape Fear River

Cape Fear River will be added at new § 117.823, detailing the operating regulations and allowing the Cape Fear Memorial Bridge to remain in the closed-to-navigation position from 8 a.m. to 10 a.m. on the second Saturday of July of every year, and from 7 a.m. to 11 a.m. on the second Sunday of November of every year. The current operating regulations set out in 33 CFR 117.5 require the drawbridge to open on signal when a request to open is given.

Northeast Cape Fear River

This rule amends 33 CFR 117.829 by revising paragraph (a), which details the operating regulations for the Isabel S. Holmes Bridge.

A new paragraph will be added to § 117.829, which allows the Isabel S. Holmes Bridge to remain in the closed position from 8 a.m. to 10 a.m. on the second Saturday of July of every year, and from 7 a.m. to 11 a.m. on the second Sunday of November of every year.

Discussion of Comments and Changes

The Coast Guard did not receive any comments on the NPRM. Therefore, no changes were made to the final rule.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning, and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the

regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that the changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings to minimize delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 rule would not have a significant economic impact on a substantial number of small entities.

This rule would not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay.

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.

Assistance for Small Entities

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. 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.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 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.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under 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 concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Section 117.821 is amended by revising paragraph (a)(5) to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach.

(a) * * *

(5) S.R. 74 Bridge, mile 283.1, at Wrightsville Beach, NC, between 7 a.m. and 7 p.m., the draw need only open on the hour; except that from 7 a.m. to 11 a.m. on the third and fourth Saturday in September of every year, the draw need not open for vessels due to the Triathlon run.

* * * * *

§ 117.823 [Redesignated]

■ 3. Redesignate § 117.823 as § 117.824.

■ 4. Add new § 117.823 to read as follows:

§ 117.823 Cape Fear River.

The draw of the Cape Fear Memorial Bridge, mile 26.8, at Wilmington need not open for the passage of vessel from 8 a.m. to 10 a.m. on the second Saturday of July of every year, and from 7 a.m. to 11 a.m. on the second Sunday of November of every year.

■ 5. Section 117.829 is amended by adding a new paragraph (a)(4) to read as follows:

§ 117.829 Northeast Cape Fear River.

(a) * * *

(4) From 8 a.m. to 10 a.m. on the second Saturday of July of every year, and from 7 a.m. to 11 a.m. on the second Sunday of November of every year, the draw need not open for vessels.

* * * * *

Dated: January 20, 2006.

L.L. Hereth,

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

[FR Doc. 06–854 Filed 1–30–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Western Alaska–6–001]

RIN 1625–AA00

Safety Zone; Alaska, South Central, Cook Inlet, Kamishak Bay

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone near Augustine Island, located in Kamishak Bay in Cook Inlet, Alaska. The zone is needed to protect marine traffic from hazards associated with recent eruptions of the Augustine Volcano. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Commander, Seventeenth Coast Guard District; the Coast Guard Captain of the Port, Western Alaska; or their on-scene representative. The intended effect of the proposed safety zone is to mitigate damage to vessels from hazards associated with the Augustine Volcano.

DATES: This rule is effective from January 18, 2006 through September 1, 2006 or until cancelled.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Western Alaska–6–001] and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, 510 "L" Street, Suite 100, Anchorage, AK 99501. Normal Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Meredith Gillman, Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest because immediate action is needed to prevent a risk to vessel traffic posed by the Augustine Volcano, which began erupting intermittently and with little advance warning on January 11, 2006.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal**