

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[CGD05-06-071]

RIN 1625-AA-09

**Drawbridge Operation Regulations; Potomac River, Between Maryland and Virginia****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the new Woodrow Wilson Memorial (I-95) Bridge, mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland. This deviation allows the new drawbridge to remain closed-to-navigation each day from 10 a.m. to 2 p.m. beginning on June 26, 2006 until and including August 25, 2006, to facilitate completion of the Outer Loop portion for the new Woodrow Wilson Bridge construction project.

**DATES:** This deviation is effective from 10 a.m. on June 26, 2006, until 2 p.m. on August 25, 2006.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222. Commander (dpb), Fifth Coast Guard District maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

**SUPPLEMENTARY INFORMATION:** On June 11, 2006, the southernmost portion of the bascule spans for the new Woodrow Wilson Memorial Bridge, at mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland was publicly placed into service, switching I-95 Northbound traffic onto the new Outer Loop portion of the bridge. The newly-constructed portion of bridge will be required to open for vessels in accordance with the current drawbridge operating regulations set out in 33 CFR 117.255(c).

While the drawbridge is operational, coordinators for the construction of the

new Woodrow Wilson Bridge Project indicated that the bascule span is not yet fully commissioned and the work continues through the rigorous testing phase. Opening the new bascule span for a vessel at this time would take approximately 45 minutes in a best case scenario. This has the potential to have a significant impact upon I-95 traffic, especially during the 10 a.m. to 2 p.m. bridge-opening time frame currently available for commercial vessels, in accordance with 33 CFR 117.255(c).

Coordinators requested a temporary deviation from the current operating regulation for the new Woodrow Wilson Memorial (I-95) Bridge set out in 33 CFR 117.255(c). The coordinators requested that the new Outer Loop portion of the new drawbridge not be available for openings for vessels each day between the hours of 10 a.m. to 2 p.m. from Monday, June 26 through August 25, 2006 or until the bridge is properly commissioned, whichever comes first. The temporary deviation will only affect vessels with mast heights of 75 feet or greater as the existing drawbridge is able to open in accordance with the current operating regulations set out in 33 CFR 117.255(a). Management of the Federal and auxiliary channels will continue to be closely coordinated between the coordinators for the construction of the new Woodrow Wilson Bridge Project, the Coast Guard and vessels requesting transit through the construction zone. Furthermore, all affected vessels with mast heights greater than 75 feet will be able to receive an opening of the new drawbridge in the "off-peak" vehicle traffic hours (evening and overnight) in accordance with 33 CFR 117.255(c). Maintaining the existing drawbridge in the closed-to-navigation position each day from 10 a.m. to 2 p.m. beginning on June 26, 2006 through August 25, 2006 will help reduce the impact to vehicular traffic during this phase of new bridge construction.

The Coast Guard has informed the known users of the waterway of the closure period for the bridge so that these vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 23, 2006.

**Waverly W. Gregory, Jr.,**  
Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. E6-10590 Filed 7-6-06; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[CGD05-06-070]

RIN 1625-AA09

**Drawbridge Operation Regulations; Potomac River, Between Maryland and Virginia****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is issuing temporary regulations that govern the operation of the new Woodrow Wilson Memorial (I-95) Bridge, mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland. This temporary final rule establishes the same operating requirements for the new drawbridge that is currently in effect for the existing-to-be-removed drawbridge.

**DATES:** This rule is effective midnight on June 20, 2006 to 11:59 on June 12, 2007.

**ADDRESSES:** Documents, indicated in this preamble as being available in the docket, are part of docket CGD05-06-070 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

**SUPPLEMENTARY INFORMATION:****Good Cause for Not Publishing an NPRM**

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. This temporary final rule establishes the same operating requirements for the new drawbridge that is currently in effect for the existing-to-be-removed drawbridge.

The new bridge will be required to open on signal as per 33 CFR 115.255(a). Since the new drawbridge has to be opened for all vessels requiring an opening that may exceed the present vertical clearance in the closed-to-navigation position at 75 feet, above mean high water (MHW), the establishment of this regulation does not place more constraint on the waterway users than the old regulation governing the existing-to-be-removed drawbridge.

#### **Good Cause for Making Rule Effective in Less Than 30 Days**

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because this rule merely establishes the same requirements as the current operating regulations for the existing-to-be-removed drawbridge. Accordingly, the primary waterway users will not be required to change their current practices of transiting the waterway. Thus, no negative impact on vessel traffic in the area is anticipated.

#### **Background and Purpose**

Construction is ongoing for the new bascule-type Woodrow Wilson Memorial (I-95) Bridge, mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland. On June 11, 2006, the southern most portion of the bascule spans for the new bridge was publicly placed into service, allowing vehicular traffic and will be required to open for vessels in accordance with the current drawbridge operating regulations set out in 33 CFR 117.255(a). The new drawbridge, when fully-constructed around 2010, is being constructed on essentially the same alignment, in close proximity of the existing-to-be-removed drawbridge. In the closed-to-navigation position, the existing-to-be-removed drawbridge provides a vertical clearance of 50 feet, above MHW. In the closed-to-navigation position, the newly-constructed southernmost spans of the new drawbridge provide a vertical clearance of 75 feet, above MHW, which allows a greater flow of vessels to pass through. Therefore, this temporary final rule will be identical to the current regulation governing the operation of the existing-to-be-removed drawbridge providing the same or less constraint for primary waterway users than were formerly in effect with the existing-to-be-removed drawbridge.

#### **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 temporary final 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 during the many years that the existing-to-be-removed drawbridge was operating under the identical regulation, the Coast Guard had not received any complaints regarding the drawbridge operating schedule. Also, the southernmost spans of the new drawbridge has been constructed on essentially the same alignment with a higher vertical clearance above MHW than the existing-to-be-removed drawbridge and the numbers of opening requests are anticipated to be less for the new bridge.

#### **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 will have no impact on any small entities because the regulation will apply to a new bridge, which replaces a bridge on which the same regulation already exists.

#### **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 rule so that they can better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

#### **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.).

#### **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, eliminates 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 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.

#### **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.ID, and Department of Homeland Security Management Directive 5100.1, 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. Under figure 2–1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons discussed 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; 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. From midnight on June 20, 2006, to 11:59 p.m. on June 12, 2007, in § 117.255 add a new paragraph(c) to read as follows:

#### § 117.255 Potomac River.

\* \* \* \* \*

(c) From midnight on June 20, 2006, to 11:59 p.m. on June 12, 2007, the draw of new Woodrow Wilson (I–95) Bridge, mile 103.8, between Alexandria, Virginia and Oxon Hill, Maryland shall operate in accordance with the same provisions outlined at paragraph (a) of this section.

Dated: June 20, 2006.

**L.L. Hereth,**

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

[FR Doc. E6–10595 Filed 7–6–06; 8:45 am]

**BILLING CODE 4910–15–P**

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[COTP St. Petersburg 06–115]

RIN 1625-AA00

#### Safety Zone; Sanibel Island Bridge, Ft. Myers Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of San Carlos Bay, Florida in the vicinity of the Sanibel Island Bridge span "A" while bridge construction is conducted. This rule is necessary to ensure the safety of the construction workers and mariners on the navigable waters of the United States.

**DATES:** This rule is effective from 6 a.m. on May 30, 2006 through 9 p.m. on September 30, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP 06–115] and are available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 3:30 p.m.,

Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Waterways Management Division at Coast Guard Sector St. Petersburg (813) 228–2191, Ext. 8307.

#### 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. The information for the bridge construction was not given with sufficient time to publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to minimize potential danger to the construction workers and mariners transiting the area.

For the same reasons, 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 Register**. The Coast Guard will issue a broadcast notice to mariners and local law enforcement vessels will be in the vicinity of this zone to advise mariners of the restriction.

##### Background and Purpose

Boh Brothers Construction will be performing construction work on the Sanibel Island Bridge between June and September, 2006. This work will involve installing a new fendering system, and pouring the deck and setting girders on the Sanibel Island Bridge span "A". These operations will require placing two barges in the Navigational Channel. The nature of this work and the close proximity of the channel present a hazard to mariners transiting the area. This safety zone is being established to ensure the safety of life on the navigable waters of the United States.

##### Discussion of Rule

The safety zone encompasses the following waters of San Carlos Bay, Florida: All waters from surface to bottom, within a 400 foot radius of the following coordinates: 26°28'59" N, 082°00'52" W. Vessels are prohibited from anchoring, mooring, or transiting within this zone, unless authorized by the Captain of the Port St. Petersburg or his designated representative.

This rule is effective from 6 a.m. until 9 p.m., May 30 2006 through September 30, 2006. However, the safety zone will only be enforced from 6 a.m. until 9 p.m. on certain dates during that time, while construction operations are