



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-1021]

RIN 1625-AA09

Drawbridge Operation Regulation; Isle of Wight (Sinepuxent) Bay, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the US 50 Bridge, over Isle of Wight (Sinepuxent) Bay, mile 0.5, Ocean City, MD. This rule changes the language of the regulation to reflect new closure times to accommodate heavy volumes of vehicular traffic following the annual July 4th fireworks show.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-1021. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the

"SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call or e-mail Mrs. Traci Whitfield, Bridge Management Assistant, Coast Guard, telephone (757) 398-6629, e-mail Traci.G.Whitfield@uscg.mil. If you have questions on reviewing the docket, call Cheryl Collins, Program Manager, Docket Operations, (202)366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
U.S.C.	United States Code

A. Regulatory History and Information

On April 1, 2014, we published a notice of proposed rulemaking (NPRM) entitled, "Drawbridge Operation Regulation; Isle of Wight (Sinepuxent) Bay, Ocean City, MD"

in the Federal Register (79 FR 18243). The Coast Guard received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 533(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the Federal Register. A 30-day delayed effective date is impracticable and contrary to the public interest. Since there were no objections to this rule during notice and comment and to accommodate the approaching fireworks show scheduled on July 4, 2014, which includes heavy volumes of vehicular traffic following the show, it would be impracticable and contrary to public interest to delay the effective date.

B. Basis and Purpose

The US 50 Bridge is a single-leaf bascule bridge with a vertical clearance of approximately 13 feet above mean high water in the closed position and unlimited in the open position.

The Ocean City Police Department, on behalf of the Maryland Department of Transportation, requested to change the current operating regulation for the US 50 Bridge across Isle of Wight (Sinexpent) Bay, mile 0.5, at Ocean City, MD to accommodate the annual Ocean City July 4th fireworks show and the heavy volumes of vehicular traffic

that transit across the drawbridge. The Ocean City Police Department requested that the bridge closure times be changed from 9:30 p.m. until 10:30 p.m., to 10:00 p.m. until 11:00 p.m. Since the fireworks show runs between 9:30 p.m. and 10:00 p.m., there is very little traffic crossing the bridge. However, there remains a high volume of traffic between 10:30 p.m. and 11:00 p.m. This change will allow for a more orderly process of transiting the heavy volumes of vehicular traffic following the fireworks show.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule. Therefore, we revised the times in 117.559(c) from the current times of 9:30 p.m. to 10:30 p.m. to new times of 10 p.m. to 11 p.m.

D. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and executive orders related to rulemaking. Below the Coast Guard summarizes our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning

and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The changes are expected to have minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the revised schedule to minimize delays. While the times are changing, mariners are familiar with this bridge closure because for the past 12 years the Coast Guard has allowed the bridge to remain in the closed position for the fireworks event.

2. 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.

This final rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit through the bridge from 10 p.m. until 11 p.m., on July 4th or July 5th of every year. This action will not have significant economic impact on a substantial number of small entities because the rule adds minimal restrictions to the movement of navigation and mariners who plan their transits in accordance with the scheduled bridge closure can minimize delay. This event has occurred every year for the past 12 years; therefore, mariners should be familiar with planning their transits accordingly. Vessels that can safely transit under the bridge may do so at any time.

3. Assistance for Small Entities

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 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.

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 Fairneww 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.

4. 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).

5. Federalism

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. The Coast Guard have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. 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.

7. 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 expenditure, Coast Guard does discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. 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.

10. Protection of Children

The Coast Guard has 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 does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. 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.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations

That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

The Coast Guard has analyzed this 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 concluded 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 rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, 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.

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; Department of Homeland Security Delegation No. 0170.1.

2. Revise §117.559(c), to read as follows:

§117.559 Isle of Wight (Sinepuxent) Bay.

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(c) On July 4, the draw need not open from 10 p.m. until 11 p.m. to accommodate the annual July 4th fireworks show. Should inclement weather prevent the fireworks event from taking place as planned, the draw need not open from 10 p.m. until 11 p.m. on July 5th to accommodate the annual July 4th fireworks show.

Dated: June 10, 2014

STEPHEN P. METRUCK
Rear Admiral, U.S. Coast Guard
Commander, Fifth Coast Guard District

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