

### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation to use the Docket Management Facility.

### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0785), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and materials by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and materials by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG-2008-0785) in the Search box, and click "Go>>." You may also visit either 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 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or First Coast Guard District, Bridge Branch, One South Street, New York, NY 10004, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Privacy Act

Anyone can search the electronic form of all comments received into any

of our dockets by the name of the individual submitting the comment (or signing the comment), if submitted on behalf of an association, business, labor union, etc. You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

### Public Meeting

We do not plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Background and Purpose

The Route 36 Bridge has a vertical clearance in the closed position of 35 feet at mean high water and 39 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.755(a). The bridge presently opens on the hour and half hour between 7 a.m. and 8 p.m. from May 15 through October 15, and on signal from 8 p.m. to 11 p.m. From 11 p.m. to 7 a.m. the bridge opens on signal after a four-hour advance notice is given.

The Shrewsbury River is navigated predominantly by recreational power boats and sail boats of various sizes. Currently only one lane of vehicular traffic is open northbound on the Route 36 Bridge due to the Highlands Bridge replacement project presently underway. Two lanes of vehicular traffic were closed in early July 2008, to facilitate the new bridge construction.

As a result of the vehicular travel lane closures traffic congestion has become a major concern to motorists and local officials. The nearby Gateway National Recreation Area, operated by the National Park Service, has been particularly impacted on weekends by traffic delays as a result of the bridge construction and drawbridge openings for vessel traffic.

The National Park Service, the New Jersey Department of Transportation, and local officials have made various adjustments to traffic control to help mitigate the vehicular traffic congestion; however, the traffic congestion on weekends in the afternoon continues to be a major safety concern when motorists are exiting the Sandy Hook area and the Gateway National Recreation Park.

As a result, the National Park Service requested a temporary deviation from the drawbridge operation regulations to

test an alternate drawbridge operation schedule to help better balance the needs between vehicular land traffic and marine vessel traffic.

Under this temporary deviation, in effect from August 2, 2008 through September 1, 2008, the Route 36 Bridge at mile 1.8, across the Shrewsbury River, shall operate as follows:

Monday through Friday, the draw shall open on signal, from 7 a.m. to 8 p.m., on the hour and half hour only. From 8 p.m. to 11 p.m. the draw shall open on signal. From 11 p.m. to 7 a.m. the draw shall open on signal after at least a four-hour notice is given by calling 732-872-1052.

Saturday, Sunday and Labor Day, the draw shall open on signal from 7 a.m. to 4 p.m., and 7 p.m. to 8 p.m. on the hour and half hour only. From 4 p.m. to 7 p.m. the draw shall open on signal once an hour, on the hour only. From 8 p.m. to 11 p.m. the draw shall open on signal. From 11 p.m. to 7 a.m. the draw shall open on signal after at least a four-hour advance notice is given by calling 732-872-1052.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 31, 2008.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E8-18312 Filed 8-7-08; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2008-0302]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Smith Creek at Wilmington, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulations of the S117-S133 Bridge, at mile 1.5, across Smith Creek at Wilmington, NC. This action will allow that the draw need not be opened for the passage of vessels.

**DATES:** This rule is effective September 8, 2008.

**ADDRESSES:** Comments and related materials received from the public, as

well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0302 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Gary S. Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6629. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On May 15, 2008, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Smith Creek at Wilmington, NC" in the **Federal Register** (73 FR 28069). We received no comments on the published NPRM. No public meeting was requested, and none was held.

##### **Background and Purpose**

The North Carolina Department of Transportation (NCDOT) is responsible for the operation of the S117-S133 Bridge, at mile 1.5, across Smith Creek at Wilmington, NC. The existing operating regulation is set out in 33 CFR 117.841 and requires the draw to open on signal if at least 24 hour notice is given. In the closed-to-navigation position, the S117-S133 Bridge has a vertical clearance of 12 feet, above mean high water.

From the 1930s to the 1970s, Smith Creek was the main waterway route for commercial vessel traffic servicing lumber mills and factories along the waterfront in Wilmington, NC. There are no longer any commercial interests requiring access upstream. NCDOT has not received a request to open the bridge in over 20 years for waterway navigation, and it has been more than 35 years since the bridge was actually manned by operators.

Due to the lack of requests for vessel openings of the drawbridge for the past

20 years, NCDOT requested to change the current operating regulations that the draw need not be opened for the passage of vessels.

##### **Discussion of Comments and Changes**

The Coast Guard received no comments to the NPRM. Based on the information provided, we will implement a final rule with no changes to the NPRM.

##### **Discussion of Rule**

The Coast Guard is amending 33 CFR 117.841, which governs the S117-S133 Bridge by revising the paragraph to read that the draw need not be opened for the passage of vessels.

##### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### **Regulatory Planning and Review**

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. We reached this conclusion based on the fact that NCDOT has not received a request to open the bridge in over 20 years for waterway navigation.

##### **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 will not have a significant economic impact on a substantial number of small entities.

This rule will not have a significant economic impact on a substantial number of small entities because NCDOT has not received a request to open the bridge in over 20 years for waterway navigation.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121),

we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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.

##### **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 will not effect 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 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 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 § 117.841 to read as follows:

#### § 117.841 Smith Creek.

The draw of the S117–S133 Bridge, mile 1.5 at Wilmington, need not open for the passage of vessels.

Dated: July 30, 2008.

**Fred M. Rosa, Jr.,**

*Rear Admiral, United States Coast Guard,  
Commander, Fifth Coast Guard District.*

[FR Doc. E8–18351 Filed 8–7–08; 8:45 am]

**BILLING CODE 4910–15–P**

### DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[USCG–2008–0218]

RIN 1625–AA00

### Safety Zones: Annual Events Requiring Safety Zones in the Captain of the Port Detroit Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing safety zones for annual

events in the Captain of the Port Detroit Zone. This rule consolidates current regulations establishing safety zones for annual fireworks events in the former Captain of the Port Toledo Zone and the former Captain of the Port Detroit Zone. In addition, it adds events not previously published in Coast Guard regulations. These safety zones are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays or other events.

**DATES:** This rule is effective August 8, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0218 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the U.S. Coast Guard, Sector Detroit, 110 Mt Elliot Ave, Detroit, MI 48207 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call CDR Joseph Snowden, Prevention, U.S. Coast Guard Sector Detroit at (313) 568–9580. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On May 22, 2008, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones: Annual Events Requiring Safety Zones in the Captain of the Port Detroit Zone in the **Federal Register** (73 FR 29725). We received zero letters commenting on the rule. No public meeting was requested, and none was held.

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**. Delaying this rule would be contrary to the public interest of ensuring the safety and security of the spectators and participants during this event and immediate action is necessary to prevent possible loss of life or property.