

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

[Docket No. USCG–2016–0113]

Drawbridge Operation Regulation; Cape Fear River, Wilmington, NC**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Cape Fear Memorial Bridge which carries US 17 across the Cape Fear River, mile 26.8, at Wilmington, North Carolina. The deviation is necessary to facilitate routine biennial maintenance and inspection of the lift span for the bridge. This deviation allows the bridge to open with an advanced notice instead of opening on signal.

DATES: This deviation is effective from 9 a.m. on March 7, 2016, through 4 p.m. on March 17, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0113] is available at <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 deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mrs. Jessica Shea, Fifth Coast Guard District (dpb), at (757) 398–6422, email jessica.c.shea2@uscg.mil.

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation has requested a temporary deviation from the current operating schedule for the Cape Fear Memorial Bridge that carries US 17 across the Cape Fear River, mile 26.8, at Wilmington, NC. The requested deviation will accommodate the routine biennial maintenance and inspection of the vertical lift span for the drawbridge. To facilitate this work, the draw of the bridge will be maintained in the closed-to-navigation position every day from 9 a.m. until 4 p.m. March 7 through 10, 2016 and again every day from 9 a.m. until 4 p.m. March 14 through 17, 2016. The bridge will open on signal at all other times.

The Cape Fear Memorial Bridge has a vertical clearance of 65 feet above mean high water (MHW) in the closed position and 135 feet above MHW in the open position. It also has an operating schedule set out in 33 CFR 117.822;

however this deviation will have no effect on that schedule.

Due to the nature of the work, vessels that require less than 45 feet of clearance do not need to request an opening and may transit safely under the bridge in the closed position. Vessels that require more than 45 feet of clearance but less than 65 feet must provide 30 minutes advanced notice of their transit. The snooper crane that will hang over the side of the bridge to inspect the bridge will be removed to allow for safe transit. Vessels that require 65 feet or greater of clearance must provide one hour advance notice so equipment and personnel can be moved to a safe location to allow for vessel transit. The bridge will be able to open for emergencies and there is no alternate route for vessels. Most waterway traffic consists of recreational boats with a few barges and tugs. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by this temporary deviation.

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

Dated: February 18, 2016.

Hal R. Pitts,*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2016–03723 Filed 2–22–16; 8:45 am]

BILLING CODE 9110–04–P**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket No. USCG–2016–0058]

RIN 1625–AA09**Drawbridge Operation Regulation; Acushnet River, New Bedford and Fairhaven, MA****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

SUMMARY: The Coast Guard is making a correction to the operating schedule that governs the New Bedford-Fairhaven Rt-6 Bridge, mile 0.0, across the Acushnet River, between New Bedford and Fairhaven, MA. On July 1, 2013, a

technical amendment was published that updated the name of the bridge, however, the requested correction was drafted incorrectly and three subparagraphs were inadvertently removed from the section.

DATES: This rule is effective February 23, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type [USCG–2016–0058]. In the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Christopher J. Bisignano, Supervisory Bridge Management Specialist, First Coast Guard District, Coast Guard; telephone (212) 514–4331 or email Christopher.J.Bisignano@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

Each year on July 1, the printed edition of Title 33 of the Code of Federal Regulations (CFR) is recodified. On July 1, 2013, the Coast Guard published a Final Rule entitled, “Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments” in the **Federal Register** (78 FR 39163). This 2013 rule made technical and editorial corrections throughout Title 33 but did not create any substantive requirements. In this rule the Coast Guard requested that the term “drawspan” be replaced with the actual name of the bridge (New Bedford-Fairhaven Rt-6 Bridge) in 33 CFR 117.585(a). However, misinterpretation of the asterisks in the regulatory text, which were used to denote that all paragraphs and subordinate paragraphs after paragraph (a) in § 117.585 were to remain unchanged, caused the subparagraphs (1) through (3) to be removed.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to

comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the publishing of the Final Rule entitled, “Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments,” in the **Federal Register** (78 FR 39163) on July 1, 2013, inadvertently removed established regulatory language. The three subparagraphs under 33 CFR 117.585(a) were inadvertently removed from the CFR. Therefore, it is unnecessary to issue a rule without prior notice and opportunity to comment.

We are issuing this rule under 5 U.S.C. 553(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** for the same reasons as stated above.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The purpose of this rule is to correct an error that occurred in the publication of the Final Rule on July 1, 2013, entitled, “Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments,” in the **Federal Register** (78 FR 39163). The use of the asterisks in the regulatory text were misinterpreted causing subparagraphs (1) through (3) to be inadvertently removed from 33 CFR 117.585(a).

The New Bedford-Fairhaven Rt-6 Bridge remains an active bridge and subparagraph’s (1) through (3) contain the actual operating schedule for the bridge. The bridge continues to operate under that schedule and the subparagraphs need to be reinserted into 33 CFR 117.585(a) to inform the public of the legal operating schedule of the bridge.

IV. Discussion of Final Rule

This rule will correct 33 CFR 117.585(a) by restoring subparagraphs (1) through (3) which contain the actual operating schedule for the New Bedford-Fairhaven Rt-6 Bridge. As paragraph (a) is currently codified in the rule, there is only the introductory language. This language by itself does not explain to the public the operating schedule for the bridge. The intention of this rule is to restore the operating language to 33 CFR 117.585(a) as it appeared immediately prior to the July 1, 2013, codification of 33 CFR.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard does not consider this rule to be “significant” under that Order because it corrects inadvertently omitted language that is consistent with the current operation of the bridge. Therefore, this rule does not affect the way vessels operate on the waterway near and through the bridge.

B. 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 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.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator. While the operating schedule was inadvertently removed from the rule, the bridge continues to operate as it had prior to the removal of the operating schedule in the CFR.

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. 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 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.

C. 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).

D. Federalism and Indian Tribal Government

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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

E. 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, we

do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a determination 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 action is categorically excluded from further review, 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.

G. 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.

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 § 117.585(a) to read as follows:

§ 117.585 Acushnet River.

(a) The New Bedford-Fairhaven RT-6 Bridge, mile 0.0 will be opened promptly, provided proper signal is given, on the following schedule:

- (1) On the hour between 6 a.m. and 10 a.m. inclusive.
- (2) At a quarter past the hour between 11:15 a.m. and 6:15 p.m. inclusive.
- (3) At all other times on call.

* * * * *

Dated: February 8, 2016.

L.L. Fagan,

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

[FR Doc. 2016-03789 Filed 2-22-16; 8:45 am]

BILLING CODE 9110-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[GN Docket No. 12-268; FCC 16-12]

Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission dismisses, and on separate grounds, denies petitions for reconsideration seeking reconsideration of the Commission's decisions in the *Incentive Auction R&O* and the *Incentive Auction Second Order on Reconsideration* not to protect certain broadcast television stations (WOSC-CD, Pittsburgh, PA; WPTG-CD, Pittsburgh, PA; WIAV-CD, Washington, DC; and KKYK-CD, Little Rock, AK) in the repacking process or make them eligible for the reverse auction. The Commission also concludes that WDYB-CD, Daytona Beach, Florida is not entitled to discretionary repacking protection or eligible to participate in the reverse auction.

DATES: Effective February 23, 2016.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Lynne Montgomery, (202) 418-2229, or by email at Lynne.Montgomery@fcc.gov, Media Bureau; Joyce Bernstein, (202) 418-1647, or by email at Joyce.Bernstein@fcc.gov, Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Reconsideration* in GN Docket No. 12-268, FCC 16-12, adopted on February 8, 2016 and released on February 12, 2016. The full text may also be downloaded at: www.fcc.gov. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Synopsis of Order on Reconsideration

I. Introduction

1. Petitioners The Videohouse, Inc. (Videohouse), Abacus Television (Abacus), WMTM, LLC (WMTM), and KMYA, LLC (KMYA) seek reconsideration of the Commission's decision, on procedural and substantive grounds, not to protect their broadcast television stations in the repacking process or make them eligible for the reverse auction. At the time the Petition was filed, Videohouse, Abacus, WMTM, and KMYA were the licensees of the following stations, respectively: WOSC-CD, Pittsburgh, Pennsylvania; WPTG-CD, Pittsburgh; WIAV-CD, Washington, DC; and KKYK-CD, Little Rock, Arkansas. WPTG-CD and KKYK-CD have since been acquired by Fifth Street Enterprise, LLC and Kaleidoscope Foundation, Inc., respectively. We dismiss and, on alternative and independent grounds, deny the Petition. For the reasons below, we also conclude that WDYB-CD, Daytona Beach, Florida, licensed to Latina Broadcasters of Daytona Beach, LLC (Latina), is not entitled to discretionary repacking protection or eligible to participate in the reverse auction.

II. Background

2. In the *Incentive Auction R&O*, the Commission concluded that the Spectrum Act mandates that the Commission make all reasonable efforts to preserve, in the repacking process associated with the broadcast television spectrum incentive auction, the coverage area and population served of only full power and Class A broadcast television facilities (1) licensed as of February 22, 2012, the date of enactment of the Spectrum Act, or (2) for which an application for a license to cover was on file as of February 22, 2012. The Commission did not interpret the Spectrum Act, however, as precluding it from exercising discretion to protect additional facilities beyond the statutory floor. The Commission granted discretionary protection to a handful of categories of facilities, based on a careful balancing of different factors in order to achieve the goals of the Spectrum Act and other statutory and Commission goals.

3. One category to which the Commission declined to extend discretionary protection was "out-of-core" Class A-eligible LPTV stations": Low power television (LPTV) stations that operated on "out-of-core" channels (channels 52-69) when the Community Broadcasters Protection Act (CBPA) was enacted in 1999 and obtained an authorization for an "in-core" channel