

commercial tug and barge to small pleasure craft. Vessels able to pass under the subject bridge in the closed-to-navigation position may do so at any time. The subject bridge will not be able to open for vessels engaged in emergency response during the closure period. An alternate route for vessels to pass is available through Ebey Slough and Union Slough near the entrance of Steamboat Slough at high tide. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridges so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: September 25, 2018.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2018-0852]

Drawbridge Operation Regulation; Swinomish Channel, Whitmarsh, WA

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 Burlington Northern Santa Fe Railroad Company (BNSF) Railroad Swing Span Drawbridge 7.6 (Bridge 7.6) across Swinomish Channel, mile 8.4, near Whitmarsh, WA. This deviation is necessary to accommodate replacement of the bridge deck ties and installation of new rail joints. The deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective without actual notice from October 1, 2018 through 3 p.m. on October 5, 2018. For the purposes of enforcement, actual notice will be used from 7 a.m. on September 23, 2018, until October 1, 2018.

ADDRESSES: The docket for this deviation, USCG-2018-0852 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 temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206-220-7282, email d13-pf-d13bridges@uscg.mil.

SUPPLEMENTARY INFORMATION: BNSF (bridge owner) has requested for Bridge 7.6 be allowed to close the span, and need not open to marine traffic to replace bridge deck ties and install new rail joints. BNSF's Bridge 7.6 crosses the Swinomish channel, mile 8.4, near Whitmarsh, WA. The subject bridge provides 8 feet of vertical clearance in the closed-to-navigation position, and 100 feet of horizontal clearance in the open-to-navigation position. Bridge 7.6 provides unlimited vertical clearance in the open-to-navigation position. Vertical and horizontal clearances are referenced to mean high-water elevation.

BNSF work requires the swing span to be in the closed-to-navigation position. The deviation period allows the subject bridge to be in the closed-to-navigation position from 7 a.m. on September 23, 2018 to 3 p.m. on October 5, 2018. During the closure times, the swing span may be opened if at least a two hour notice has been given to the bridge operator. The span will open for emergencies and tribal fishing vessels with a one hour notice to the bridge operator. The deviation period and span operation is described in the table below:

| Start time/date | End time/date | Action |
|-------------------|--------------------|--|
| 7 a.m. Sep 23, 18 | 11 p.m. Sep 23, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Sep 24, 18 | 3 p.m. Sep 24, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Sep 25, 18 | 3 p.m. Sep 25, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Sep 26, 18 | 3 p.m. Sep 26, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Sep 27, 18 | 3 p.m. Sep 27, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Sep 28, 18 | 3 p.m. Sep 28, 18 | Span in the closed-to-navigation position. |
| 7 a.m. Sep 30, 18 | 11 p.m. Sep 30, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Oct 01, 18 | 3 p.m. Oct 01, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Oct 02, 18 | 3 p.m. Oct 02, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Oct 03, 18 | 3 p.m. Oct 03, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Oct 04, 18 | 3 p.m. Oct 04, 18 | Span in the closed-to-navigation position. |
| 9 a.m. Oct 05, 18 | 3 p.m. Oct 05, 18 | Span in the closed-to-navigation position. |

Bridge 7.6 normally operates in accordance with 33 CFR 117.5, and is normally maintained in the open-to-navigation position. The bridge shall operate in accordance to 33 CFR 117.5 at all other times. Waterway usage on the Swinomish Channel includes commercial tugs and barges, U.S. Coast Guard vessels, and large to small pleasure craft. BNSF coordinated with tribal leaders to open Bridge 7.6 during the closure period herein to tribal

fishing vessels with an hour notice. BNSF also coordinated with marinas on Swinomish Channel to open the subject bridge, with at least a two hour notice, during the closure period herein.

Vessels able to pass through the subject bridge in the closed-to-navigation position may do so at any time. An alternate route is via the southern Swinomish Channel using Skagit Bay. The Coast Guard will also inform the users of the waterways

through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 24, 2018.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0920]

RIN 1625–AA00

Safety Zone; Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Cape Fear River to minimize risks caused by vessels transiting near vessels and divers conducting post-Hurricane Florence recovery operations. Entry of vessels or persons into this zone is prohibited unless a vessel meets the stated requirements or is specifically authorized by the Captain of the Port North Carolina (COTP).

DATES: This rule is effective without actual notice from October 1, 2018, through October 17, 2018. For the purposes of enforcement, actual notice will be used from September 26, 2018, through October 1, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2018–0920 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Petty Officer Joshua O'Rourke, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone 910–772–2227, email: joshua.p.orourke@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port
 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

After Hurricane Florence passed over the Cape Fear River, the National Oceanic and Atmospheric Administration and U.S. Army Corps of Engineers conducted surveys of the navigable channel to identify obstructions that may have collected on the river bottom and pose risks to shipping traffic. The surveys identified a number of potential obstructions that require further investigation and possible removal. Operations are scheduled to begin on September 26, 2018. These operations involve diving in murky water with strong currents, using heavy-lift equipment on floating platforms, and other inherently risky activities that require strict safety procedures. Vessels that pass too close or too quickly increase the risk of these operations. To mitigate such risks, the COTP is establishing a safety zone around the vessels conducting diving and salvage operations. This safety zone will move with the vessels as they transit the river to investigate and remove obstructions.

The Coast Guard is issuing this temporary 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)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because to do so would be impracticable and contrary to the public interest. Waiting to return the waterway to conditions that accommodate the safe, full resumption of commercial shipping is contrary to the public interest. It is impracticable to publish an NPRM because recovery assets will be on scene on or about September 26, 2018, and the safety zone needs to be in place at that time to protect vessels and persons in the vicinity of salvage operations.

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 the effective date of this rule would be impracticable and contrary to the public interest. Immediate action is needed to protect vessels and persons conducting diving and salvage operations, as well as

vessels transiting nearby, from the potential hazards associated with these operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port North Carolina (COTP) has determined that potential hazards associated with salvage operations starting on or about September 26, 2018, will be a safety concern when anyone approaches within 100 yards of salvage vessels and divers. This rule is needed to protect personnel and vessels in the navigable waters within and transiting near the safety zone.

IV. Discussion of the Rule

This rule establishes a moving safety zone that protects vessels and affiliated divers engaged in post-Hurricane Florence salvage operations on the navigable waters of the Cape Fear River. The safety zone includes all navigable waters within 100 yards of vessels actively engaged in salvage and dive support vessels being used to conduct salvage operations on the Cape Fear River. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Vessels requesting to enter or transit the safety zone may contact the Sector North Carolina Command Center via VHF–FM channel 16 or telephone at 910–362–4015.

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 protestors.

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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and