

Vessel	Number	Obstruction angle relative ship's headings
USS MITSCHER	DDG 57	109.66° thru 112.50°.

■ 3. In Table Five of § 706.2 revise the entry for USS MITSCHER (DDG 57) to read as follows:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS MITSCHER	DDG 57		X	X	12.4

Approved: May 26, 2006.  
**Gregg A. Cervi,**  
*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General Admiralty and Maritime Law.*  
 [FR Doc. E6-10033 Filed 6-23-06; 8:45 am]  
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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD05-06-047]

RIN 1625-AA09

**Drawbridge Operation Regulation: Beaufort (Gallants) Channel, NC**

**AGENCY:** Coast Guard, DHS.  
**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the regulations that govern the operation of the U.S. 70 Bridge across Beaufort (Gallants) Channel, mile 0.1, at Beaufort, NC. The rule allows the bridge to remain in the closed-to-navigation position from midnight on June 30, 2006, until and including 9 p.m. on July 5, 2006, to facilitate the Pepsi America Sail 2006 event.

**DATES:** This rule is effective from midnight on June 30, 2006 to 9 p.m. on July 5, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the

docket, is part of docket CGD05-06-047 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6587. Fifth District maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District, at (757) 398-6587.

**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 rule is necessary due to the high volume of pedestrians (approximately 400,000) that are expected to attend this event and as such it has been coordinated with local marinas and the North Carolina Department of Transportation (NCDOT). We believe that it is not necessary to draft or publish an NPRM in advance of the requested start date for this bridge closure due to the availability of an alternate maritime route. The bridge closure is also a necessary measure to ensure public safety by allowing for the orderly movement of vehicular traffic before,

during and after the Pepsi America Sail 2006 event.

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

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 unnecessary due to the availability of an alternate local route for mariners, through Morehead City on the Atlantic Intracoastal Waterway, which is the result of coordination with local marine facilities. Good cause also exists for making this rule effective in less than thirty days to ensure the public interest. The event is scheduled for June 30, 2006, until and including July 5, 2006 and immediate action is necessary to ensure public safety and provide for the orderly movement of participants and vehicular traffic during the Pepsi America Sail 2006 event.

**Background and Purpose**

In the closed-to-navigation position, the U.S. 70 Bridge, at mile 0.1, across Beaufort (Gallants) Channel, has a vertical clearance of approximately 13 feet above mean high water. The existing regulations are outlined at 33 CFR 117.822.

On behalf of NCDOT, who owns and operates the U.S. 70 Bridge, organizers of the Pepsi America Sail 2006 requested a temporary change to the operating regulations for the U.S. 70 Bridge to facilitate the event.

Approximately 10–12 tall ships will moor in the area and provide opportunities for visitors to tour the vessels. The Pepsi Sail event is expected to draw approximately 400,000 pedestrians with vehicles to the region for this 4th of July holiday weekend. The bridge serves as a primary traffic route for vehicles attending the event. Disruption of this route to accommodate routine maritime traffic along this waterway would significantly impact public safety by not allowing for the orderly movement of participants and vehicular traffic before, during and after the event.

According to the bridge logs provided by NCDOT, the information showed that in 2005 from June 30 until July 5, the drawbridge opened on average approximately 28 times daily for recreational waterway traffic. Vessel openings will be arranged by NCDOT for tall ships with mast heights greater than 65 feet. Vessels with mast height greater than 13 feet but less than 64 feet will be directed to transit the alternate route along the Intracoastal Waterway (ICW) in Morehead City. The U.S. 70 (fixed) Bridge, along the alternate route, at ICW mile 203.8, which spans Newport River, in Morehead City, has a vertical clearance of approximately 65 feet above mean high water.

The Coast Guard has informed vessel operators, through local marinas, of the closure period for the U.S. 70 Bridge across Beaufort (Gallants) Channel, and openings will be arranged by NCDOT for tall ships with mast heights greater than 65 feet. Vessels with mast heights greater than 13 feet but less than 64 feet will be directed to use the alternate route along the Intracoastal Waterway (ICW) in Morehead City to minimize the impact to public safety by allowing for the orderly movement of participants and vehicular traffic before, during and after the event. Vessels with mast heights lower than 13 feet can still transit through the drawbridge and waterway during this event, since the waterway will remain open.

#### **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 final rule to be so minimal that a

full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This conclusion was based on the fact that this rule will have minimal impact on maritime traffic transiting this area. Since Beaufort (Gallants) Channel will remain open to navigation during this event, mariners with mast height less than 13 feet may still transit through the bridge. Vessel openings will be arranged by NCDOT for tall ships with mast heights greater than 65 feet to transit the U.S. 70 Bridge across Beaufort (Gallants) Channel. Vessels with mast heights greater than 13 feet but less than 64 feet can transit through the local alternate route, through the U.S. 70 (fixed) Bridge, at ICW mile 203.8, which spans Newport River, in Morehead City.

#### **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 even though the rule closes the U.S. 70 Bridge to mariners, openings will be arranged by NCDOT for tall ships with mast heights greater than 65 feet. Mariners whose mast heights are greater than 13 feet but less than 64 feet will be able to transit U.S. 70 (fixed) Bridge, at ICW mile 203.8, which spans Newport River, in Morehead City. Those with mast heights less than 13 feet will still be able to transit through the bridge during the closed hours.

#### **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 this action 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).

#### **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 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, 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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. 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 amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATION

■ 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); (117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From midnight on June 30, 2006, to 9 p.m. on July 5, 2006 in (117.822, suspend paragraphs (a) and (b) and add a new paragraph (c) to read as follows:

#### § 117.822 Beaufort Channel.

\* \* \* \* \*

(c) From midnight on June 30, 2006, to 9 p.m. on July 5, 2006, the U.S. 70 Bridge, mile 0.1, at Beaufort NC, may remain closed to navigation.

Dated: June 15, 2006.

**Larry L. Hereth,**

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

[FR Doc. E6–10051 Filed 6–23–06; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09–06–052]

RIN 1625–AA00

#### Safety Zone; Village Fireworks, Sodus Point, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of Sodus Bay on July 3, 2006. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. This safety zone is intended to restrict vessel

traffic from a portion of Sodus Bay, Sodus Point, NY.

**DATES:** This rule is effective from 10 p.m. (local) until 10:30 p.m. (local) on July 3, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–06–052] and are available for inspection or copying at: U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Blvd., Buffalo, New York 14203, between 8 a.m. (local) and 4 p.m. (local), Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Tracy Wirth, U.S. Coast Guard Sector Buffalo, at (716) 843–9573.

### 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 permit application was not received in time to publish an NPRM followed by a final rule before the effective date.

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 of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

#### Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Buffalo has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the locations of the launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.