

Dated: June 30, 1998.

William K. Hubbard,

*Associate Commissioner for Policy
Coordination.*

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01-96-015]

RIN 2115-AE46

Special Local Regulation: Swim Buzzards Bay Day, New Bedford, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation for a swimming event known as Swim Buzzards Bay Day. The event is held annually on a day during the last weekend of July or first weekend in August. This swimming event takes place in Buzzards Bay, on the Acushnet River. The actual date time will be published in a **Federal Register** document. This regulation is needed to protect the participants from vessel traffic during the swimming event.

DATES: This section is effective on July 24, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Timothy J. Carton, Office of Search and Rescue, First Coast Guard District, (617) 223-8460.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was published on May 6, 1996 (61 FR 20196) proposing the establishment of a permanent special local regulation for the annual swimming competition, Swim Buzzards Bay Day, New Bedford, MA. The NPRM proposed to restrict vessels from approaching within 200 feet of any participating swimmer to ensure the safety of participants during the event. No comments were received and no hearing was requested.

Background and Purpose

The annual Swim Buzzards Bay Day is a local, traditional event that has been held for many years on the Acushnet River, New Bedford/Fairhaven, MA. In the past, the Coast Guard has promulgated individual regulations for the event. Given the recurring nature of the event, the Coast Guard is establishing a permanent regulation.

This rule establishes a permanent regulation for an annual event to be held during the last week of July or first week in August on the Acushnet River. This rule restricts vessels from approaching within 200 feet of participating swimmers.

The event will consist of approximately 50 swimmers transversing the Acushnet River from Fort Phoenix Beach in Fairhaven, MA, to Billy Woods Wharf in New Bedford, MA. There will be one rowing skiff per participant, along with sponsor provided vessels on scene to augment a Coast Guard patrol to alert boating traffic of the presence of the swimmers. The time period for the event is dictated by tidal conditions. Subject to Coast Guard approval, the sponsor selects a day during the last weekend of July or the first weekend of August that most closely exhibits low tide at a daytime hour reasonable for holding the event. Spectator craft are authorized to watch the race from any area as long as they remain 200 feet away from any participating swimmer. In emergency situations, provisions may be made to establish safe escort by a Coast Guard or Coast Guard designated vessel for vessels requiring transit within 200 feet of participating swimmers.

Good cause exists for providing this rule to become effective in less than 30 days. This rule is being made effective less than 30 days after publication due to the need to publish a notice in the **Federal Register**, which will provide an exact date and time of the annual event. Any delay encountered in effecting this rule would be contrary to the public interest, as the rule is needed to ensure the safety of the boating public during this event.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, 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 exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the event, the extensive advisories that will be made to the affected maritime community and the minimal restrictions

that the regulation places on vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, 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.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and a criterion contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under Figure 2-1, paragraph 34(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section, 100.116, is added to read as follows:

§ 100.116 Swim Buzzards Bay Day, New Bedford, MA.

(a) *Regulated Area.* All waters of the Acushnet River, within 200 feet of participating swimmers.

(b) *Special Local Regulations.* (1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this section and other applicable laws.

(c) *Effective period.* This section is in effect annually on one day during the last week of July or first week in August. Actual dates and time will be published in a **Federal Register** document.

Dated: June 24, 1998.

R.M. Larrabee,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-97-080]

RIN 2115-AE47

Drawbridge Operation Regulations; Beaufort Channel, Beaufort, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Greydon Paul Drawbridge on US 70 across Beaufort Channel, (also known as Gallant's Channel) mile 0.1, located in Beaufort, North Carolina, at the request of the North Carolina Department of Transportation.

The final rule eliminates drawbridge openings at 7:40 a.m., 8:40 a.m., 4:40

p.m., and 5:40 p.m. on weekdays only. All other provisions of the existing regulations for this bridge remain the same. This final rule is intended to reduce motor vehicular delays and congestion related to commuter traffic going to and from work in the mornings and evenings, while still providing for the reasonable needs of navigation.

DATES: This final rule is effective on August 10, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection for copying at the office of the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th 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) 398-6222.

FOR FURTHER INFORMATION CONTACT: Ann Deaton, Bridge Administrator, Fifth Coast Guard District (757) 398-6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 17, 1997, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Beaufort Channel, Beaufort, North Carolina" in the **Federal Register** (62 FR 66039). The Coast Guard received 21 letters commenting on the proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The Greydon Paul Drawbridge across Beaufort Channel, located in Beaufort, North Carolina, is owned and operated by the North Carolina Department of Transportation (NCDOT). The current regulations at 33 CFR 117.822 require the bridge to open on signal except that from 6 a.m. to 10 p.m., the draw opens on signal for all vessels waiting to pass every hour on the hour, twenty minutes past the hour and forty minutes past the hour.

NCDOT requested that openings of the Greydon Paul Drawbridge be further restricted during weekday morning and evening rush hours. This request to change the current regulation is based on heavy vehicular commuter traffic traveling to and from the town of Beaufort during peak rush hour periods. The Greydon Paul Drawbridge is located on US Highway 70, which is the only corridor entering and exiting the town of Beaufort from Morehead City, North Carolina. During rush hour periods, drawbridge openings create long traffic backups often extending for 6 to 7 miles. The heavy congestion often results in vehicular accidents. NCDOT contended

that by eliminating one scheduled opening per hour during rush hours, vehicular traffic congestion on US Highway 70 will be reduced and highway safety will be increased without placing undue hardship on vessel traffic.

NCDOT provided the Coast Guard with statistical data which shows the total number of openings and of vessels passing through the Beaufort Bridge at the regularly scheduled 7:40 a.m., 8:40 a.m., 4:40 p.m., and 5:40 p.m. openings during August, 1997, which is one of the peak summer months for boating traffic in this area. The data revealed that only 42 out of a possible 120 drawbridge openings were required at these scheduled opening times, and a total of 65 vessels passed through the bridge. The Coast Guard has determined that since vessel traffic only needed 35% of these rush hour openings, and there was minimal vessel traffic at these times, a reduction in the number of openings will not substantially impact navigational traffic, but will provide a positive offsetting benefit to vehicular traffic.

Therefore, the Coast Guard is amending 117.822 by eliminating drawbridge openings at 7:40 a.m., 8:40 a.m., 4:40 p.m., and 5:40 p.m. on weekdays only, year round. All other provisions of the existing regulation will remain the same.

Discussion of Comments and Changes

The Coast Guard received 20 comments on the NPRM in support of permanently closing the bridge to all vessel traffic. These comments did not address the proposed change to the regulations. One comment was received requesting no additional restrictions or changes to the current regulations. Since all but one of the comments did not address the proposed change for which comments were being solicited, and the Coast Guard has determined permanently closing the bridge to all vessel traffic is unreasonable and unfair, the final rule is being implemented without change.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this