

**FOR FURTHER INFORMATION CONTACT:** Pamela A. Posch, Office of General Counsel, Telephone (301) 492-5959.

**SUPPLEMENTARY INFORMATION:** The rationale for this amendment of the Commission's policy of rewarding superior program achievement is described in the supplementary information for the proposed rule. 60 FR 26010-11. The interim rule permits the advancement of a prisoner's presumptive release date by up to twelve months for successfully completing a residential substance abuse treatment program. This provision comports with the permissible prison term reduction identified by the Bureau of Prisons in its own interim rule on the subject. 60 FR 27695. The existing schedule of permissible reductions in paragraph (e) of § 2.60 will not limit the reward which may be granted under the interim rule for completing the residential drug abuse treatment program. Any reduction under the new policy will be in addition to any other advancement for superior program achievement in areas unrelated to participation in substance abuse treatment programs. The proposed rule included a provision that stated the Commission's intent that the normal reduction under the policy would be twelve months, with certain exceptions. The Commission decided that a precise definition of its policy should be postponed until both the Bureau of Prisons and the Commission obtain experience in the implementation of the agencies' respective rules, and therefore is publishing this rule on an interim basis, with request for further public comment. For the Parole Commission, the need is to determine whether the interim rule can be implemented consistently with the statutory criteria for parole at 18 U.S.C. 4206 (1976). If this does not appear feasible, the Commission may amend or withdraw the interim regulation.

A comment favoring adoption of the proposed rule was received from a representative of the National Association of Criminal Defense Lawyers. This comment encouraged the Commission to revise its proposal to allow the advancement of the prisoner's presumptive release date even if the prisoner had a prior history of violent offenses. The representative noted that the Commission's practice would otherwise diverge from that proposed by the Bureau of Prisons, which would be limited to the prisoner's offense of conviction as a basis for deciding whether the prisoner should be eligible for early release. The Commission did not adopt the recommended revision

since the criteria it must follow in making parole decisions require it to consider the "history and characteristics" of the eligible prisoner and whether his release would jeopardize the public welfare. See 18 U.S.C. 4206(a)(2). The Commission must consider relevant information as to the prisoner's capacity for violence which the Bureau of Prisons may not be required to consider in granting prison term reductions under 18 U.S.C. 3621(e). In addition, the Commission notes that the Bureau has determined that it will not consider the prisoner for early release if his prior criminal record includes a conviction for homicide, forcible rape, robbery, or aggravated assault. 60 FR 27692, 27695.

**Implementation**

Prisoners will be considered for advancements under the interim rule at any hearing or pre-release record review that is conducted on or after October 2, 1995. The Commission will not reopen cases for prisoners who have a release date with no further hearing or review scheduled. For prisoners who are given hearings or reviews on or after October 2, 1995, the Commission may consider an advancement of the prisoner's presumptive release date under the interim rule even if completion of a residential substance abuse treatment program occurred prior to the effective date of the rule.

**Executive Order 12866 and Regulatory Flexibility Statement**

The U.S. Parole Commission has determined that this interim rule is not a significant rule within the meaning of Executive Order 12866, and the rule has, accordingly, not been reviewed by the Office of Management and Budget. The rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

**List of Subjects in 28 CFR Part 2**

Administrative practice and procedure, Probation and parole, Prisoners.

**The Amendment**

Accordingly, the U.S. Parole Commission is adopting the following amendments to 28 CFR part 2.

**PART 2—[AMENDED]**

(1) The authority citation for 28 CFR part 2 continues to read as follows:

**Authority:** 18 U.S.C. 4203(a)(1) and 4204(a)(6).

(2) 28 CFR part 2, § 2.60 is amended by adding new paragraphs (g) and (h), to read as follows:

**§ 2.60 Superior program achievement.**

\* \* \* \* \*

(g) Upon notification by the Bureau of Prisons that a prisoner who has a recognized problem with substance abuse, has successfully completed residential substance abuse treatment (in conformity with the criteria set forth for non-parolable prisoners in 18 U.S.C. 3621(e)), the Commission will consider such prisoner for a special advancement, by up to twelve months, of the presumptive release date previously set. Such advancement may be made even though the Schedule of Permissible Reductions in paragraph (e) of this section provides a permissible reduction of less than twelve months, and shall be in addition to any other advancement granted under this section. However, if the prisoner has already received an advancement of his presumptive parole date (or, in the case of a prisoner who has been continued to expiration, has received extra good time credit) for participation in a residential substance abuse treatment program, and the advancement (or good time credit) equals or exceeds the advancement that would be granted under this paragraph, no further advancement shall be granted.

(h) Any advancement under this section (including a special advancement for completion of residential substance abuse treatment) is subject to forfeiture, in whole or in part, whenever a presumptive parole date is rescinded pursuant to § 2.34. In the case of a special advancement under paragraph (g) of this section, the entire advancement shall be forfeited if the Commission finds that the prisoner has engaged in usage, possession, or distribution of any controlled substances subsequent to program completion.

Dated: July 27, 1995.

**Edward F. Reilly, Jr.,**

*Chairman, Parole Commission.*

[FR Doc. 95-19314 Filed 8-4-95; 8:45 am]

BILLING CODE 4410-01-P

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 100

[CGD 09-95-016]

RIN 2115-AE46

**Special Local Regulation; We Love Erie Days Festival Fireworks Display, Lake Erie, Erie Harbor, PA**

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

**SUMMARY:** A special local regulation is being adopted for the We Love Erie Days Festival Fireworks Display. This event will be held on Lake Erie, Erie Harbor, PA on August 20, 1995. This regulation will restrict general navigation on Erie Harbor, PA. Due to the large number of spectator vessels and the falling ash and debris from the fireworks display, this regulation is needed to provide for the safety of life, limb, and property on navigable waters during the event.

**EFFECTIVE DATE:** This regulation is effective from 9 p.m. through 11 p.m. on August 20, 1995, unless extended or terminated sooner by the Coast Guard Group Commander, Buffalo, NY.

**FOR FURTHER INFORMATION CONTACT:** Marine Science Technician Second Class Jeffrey M. Yunker, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, Room 2083, 1240 East Ninth Street, Cleveland, Ohio, 44199-2060, (216) 522-3990.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until May 22, 1995, and there was not sufficient time remaining to publish a proposed final rule in advance of the event. The Coast Guard has decided to proceed with a temporary rule for this year's event and publish a NPRM, as part of the Great Lakes annual marine events list, prior to next year's event.

**Drafting Information**

The drafters of this notice are Lieutenant Junior Grade Byron D. Willeford, Project Officer, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, and Lieutenant Charles D. Dahill, Project Attorney, Ninth Coast Guard District Legal Office.

**Discussion of Regulation**

The We Love Erie Days Festival Fireworks Display will be conducted on Lake Erie, Erie Harbor, PA on August 20, 1995. This regulation will restrict general navigation on Erie Harbor, PA within a 300 foot radius of the Erie Sand and Gravel Pier, the fireworks launching site. This event will have an unusually large concentration of spectator vessels and falling ash and debris, which could pose hazards to navigation in the area. This regulation is necessary to ensure the protection of life, limb, and property on navigable waters during this event. Any vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Commanding Officer, U.S. Coast Guard Station, Erie, PA.)

This regulation is issued pursuant to 33 U.S.C. 1233 as set out in the authority citation for all of Part 100.

**Federalism Implications**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard is conducting an environmental analysis for this event pursuant to section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, and the Coast Guard Notice of final agency procedures and policy for categorical exclusions found at (59 FR 38654; July 29, 1995).

**Economic Assessment and Certification**

This regulation 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 regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of the DOT is unnecessary.

**Collection of Information**

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

**List of Subjects in 33 CFR Part 100**

Marine Safety, Navigation (water), Reporting and recordkeeping requirement, Waterways.

**Temporary Regulation**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

**PART 100—[AMENDED]**

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 temporary § 100.35-T09-016 is added to read as follows:

**§ 100.35—T09-016 We Love Erie Days Festival Fireworks Display, Lake Erie, Erie Harbor, PA.**

(a) *Regulated Area:* That portion of the Lake Erie, Erie Harbor, PA within a 300 ft. radius of the fireworks launching site, located on the Erie Sand and Gravel Pier, in approximate position 42°08'16" N, 080°05'40" W. Datum: NAD 1983.

(b) *Special Local Regulation:* This regulation restricts general navigation in the regulated area for the safety of spectators and participants. Any vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander.

(c) *Patrol Commander:*

(1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander (Officer in Charge, U.S. Coast Guard Station Erie, PA). The Patrol Commander may be contacted on channel 16 (156.8 MHz) by the call sign "Coast Guard Patrol Commander."

(2) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(4) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(5) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life, limb, or property.

(6) All persons in the area shall comply with the orders of the Coast Guard Patrol Commander.

(d) *Effective Date:* This section is effective from 9 p.m. through 11 p.m. on August 20, 1995, unless extended or terminated sooner by the Coast Guard Group Commander, Buffalo, NY.

Dated: July 12, 1995.

**G.F. Woolever,**

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

[FR Doc. 95-19347 Filed 8-4-95; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 117

[CGD05-94-118]

RIN 2115-AE47

#### Drawbridge Operation Regulations; Atlantic Intracoastal Waterway—Alternate Route, Elizabeth City, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** At the request of the Albemarle and Chesapeake Railroad Company, the Coast Guard is changing the regulations that govern the operation of the drawbridge across the Pasquotank River, Atlantic Intracoastal Waterway—Alternate Route, mile 47.7, at Elizabeth City, North Carolina, to allow leaving the draw in the open position except for the passage of trains. This change to these regulations is, to the extent practical and feasible, intended to relieve the bridgeowners of the burden of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

**EFFECTIVE DATE:** This rule is effective on September 6, 1995.

**FOR FURTHER INFORMATION CONTACT:** Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398-6222.

#### SUPPLEMENTARY INFORMATION:

##### Drafting Information

The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Section, and CAPT R.A. Knee, Project Counsel, Fifth Coast Guard District Legal Office.

##### Regulatory History

On March 13, 1995, the Coast Guard published a Notice of Proposed Rulemaking entitled Atlantic Intracoastal Waterway—Alternate Route, Elizabeth City, North Carolina, in the **Federal Register** (60 FR 13393). The comment period ended May 12, 1995.

The Coast Guard received one comment on the Notice of Proposed Rulemaking objecting to the Coast Guard's proposed change to the regulations. The one objector stated that the proposed change at first glance sounded reasonable, but after further review, felt the city and the boating community should pay for the privilege of increased waterway accessibility just as the Albemarle and Chesapeake Railroad Company must pay for the usage of the tracks and the services of a bridgetender. The Coast Guard is without authority to assess such fees and the suggestion is inconsistent with burden placed on owners and operators of drawbridges by 33 U.S.C. 499. On April 5, 1995, the Coast Guard issued Public Notice 5-851 requesting comments on the Notice of Proposed Rulemaking. The comment period ended May 12, 1995. One comment was received on the Public Notice in favor of the Coast Guard's proposed change to the regulations. A public hearing was not requested and one was not held.

##### Background and Purpose

The Albemarle and Chesapeake Railroad Company has requested that the regulations governing the operation of the drawbridge across the Pasquotank River, Atlantic Intracoastal Waterway—Alternate Route, mile 47.7, at Elizabeth City, North Carolina, be changed to allow leaving the bridge in the open position, except when a train is passing over it and for maintenance. A bridgetender would be available only during the times of train crossings to close the bridge and, after the train had cleared or completion of any maintenance work, to reopen the bridge to navigation. There would not be a full-time bridgetender employed at the bridge.

Currently, the bridge remains in the open position from 3:30 p.m. to 11:30 p.m. At all other times, the draw opens on signal. This final rule will require the bridge to be maintained in the open position except for passage of trains and, when necessary, during maintenance work. A bridgetender will be available to reopen the bridge after trains have cleared the bridge and after completion of any maintenance work.

In developing this schedule, the Coast Guard considered all views, and believes this final rule will not unduly restrict commercial and recreational traffic, since the bridge will be left in the open position, except for the passage of trains.

##### 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. 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, 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 principals and criteria contained in Executive Order 12612, and it has determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

##### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement and checklist have been prepared and placed in the rulemaking docket.

##### List of Subjects in 33 CFR Part 117

Bridges.