

response to the prior opportunities for comment described above.

#### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

#### The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for McDonnell Douglas DC-9-81, -82 airplanes modified by Midwest Express Airlines.

1. *Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF)*. Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields. For the purpose of these special conditions, the following definition applies:

*Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on June 11, 1998.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD01-97-020]

RIN 2115-AE47

#### Drawbridge Operation Regulations; Passaic River, NJ

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard amends the operating rules for five bridges over the Passaic River in New Jersey. This final rule will allow the bridge owners to operate their bridges on an advance notice basis. The Jackson Street Bridge at mile 4.6, the Bridge Street Bridge at mile 5.6, and the Clay Street Bridge at

mile 6.0, will open on signal after a four hour advance notice is given. The New Jersey Transit Rail Operations (NJTRO) Bridge at mile 11.7, and the Route 3 Bridge at mile 11.8, will open on signal after a 24 hour notice is given. This final rule is expected to relieve the bridge owners of the burden of constantly having personnel available to open the bridges and still provide for the needs of navigation.

**DATES:** This final rule is effective July 23, 1998.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Ma. 02110-3350, 7 a.m. through 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364.

**FOR FURTHER INFORMATION CONTACT:** John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

On February 13, 1998, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations Passaic River, New Jersey, in the **Federal Register** (63 FR 7357). The Coast Guard did not receive any comments in response to the notice of proposed rulemaking. No public hearing was requested, and none was held.

#### Background

The clearances at mean high water (MHW) and mean low water (MLW) for the five bridges affected by this rule change are as follows: Jackson Street 15' MHW & 20' MLW, Bridge Street 7' MHW & 12' MLW, Clay Street 8' MHW & 13' MLW, NJTRO 26' MHW & 31' MLW and Route 3 35' MHW & 40' MLW.

The Jackson Street, Bridge Street and Clay Street bridges presently open on signal, except that, notice must be given before 2:30 a.m. for openings between 4:30 p.m. and 7 p.m. This change to the operating regulations will require the bridges to open on signal after four hours notice is given.

The NJTRO Bridge presently opens on signal from 8 a.m. to 4 p.m., if at least six hours notice is given. From 4 p.m. to 8 a.m., the draw need not be open. The Route 3 Bridge presently opens on signal, if at least six hours notice is given. New Jersey Transit Rail Operations records indicate there has not been a request to open the NJTRO Bridge since December, 1991. The New Jersey Department of Transportation records indicate there have been only ten bridge openings during the last ten

years for the Route 3 Bridge. All ten openings were test openings.

#### Discussion of Comments and Changes

No comments were received in response to the Notice of Proposed Rulemaking. The six month advance notice requirement for the NJTRO and Route 3 Bridge published in the Notice of Proposed Rulemaking has been changed to a 24 hour advance notice for openings. Upon further review the Coast Guard believes a 24 hour notice is a more reasonable time period than the six months in the original proposal. The Coast Guard believes that six months is too restrictive for mariners that may need to transit through the bridges. The bridge owners have been contacted and advised that a six month notice is too restrictive to navigation and so long as the respective bridges are movable bridges that they must continue to keep the operating machinery in good working condition. A 24 hour advance notice should still provide relief to the bridge owners by not requiring the bridges to be crewed and still provide for the needs of navigation that may desire to pass through the bridge.

#### 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 not been reviewed 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 final 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 fact that bridges must operate in accordance with the needs of navigation while providing for the reasonable needs of land transportation. This final rule adopts the operating hours which the Coast Guard believes to be appropriate based on the results of past experience with the roving drawtender crew operation and public comments. The Coast Guard believes this final rule achieves the requirement of balancing the navigational rights of boaters and the needs of land based transportation.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on

a substantial number of small entities. "Small entities" include small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

**Federalism**

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

**Environment**

The Coast Guard considered the environmental impact of this final rule and concluded that, under Figure 2-1, paragraph 32(e), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to have a significant effect on the environment. A "Categorical Exclusion Determination" is not required for this final rule.

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

Bridges.

**Regulations**

For the reasons set out 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; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. In § 117.739, paragraphs (d), (f), (i), (m) and (n) are revised to read as follows:

**§ 117.739 Passaic River.**

\* \* \* \* \*

(d) The draw of the Jackson Street Bridge, mile 4.6, shall open on signal if

at least four hours notice is given by calling the number posted at the bridge.

\* \* \* \* \*

(f) The draw of the Bridge Street Bridge, mile 5.6, shall open on signal if at least four hours notice is given by calling the number posted at the bridge.

\* \* \* \* \*

(i) The draw of the Clay Street Bridge, mile 6.0, shall open on signal if at least four hours notice is given by calling the number posted at the bridge.

\* \* \* \* \*

(m) The draw of the NJTRO Bridge, mile 11.7, shall open on signal after at least a 24 hour notice is given by calling the number posted at the bridge.

(n) The draw of the Route 3 Bridge, mile 11.8, shall open on signal after at least a 24 hour notice is given by calling the number posted at the bridge.

\* \* \* \* \*

Dated: June 8, 1998.

**R. M. Larrabee,**

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

[FR Doc. 98-16666 Filed 6-22-98; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

[CGD01-98-044]

RIN 2115-AA97

**Safety Zone: City of Yonkers Fireworks, New York, Hudson River**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the City of Yonkers fireworks program located on the Hudson River, Yonkers, New York. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

**DATES:** This rule is effective from 8:30 p.m. until 10 p.m. on Saturday, July 4, 1998, with a rain date of Sunday, July 5, 1998, at the same time and place.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354-4195.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant (Junior Grade) A. Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354-4195.

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the fact that plans for this event were recently finalized, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display, which is intended for public entertainment.

**Background and Purpose**

Bay Fireworks has submitted an Application for Approval of Marine Event to hold a fireworks program on the waters of the Hudson River at Yonkers, New York. The fireworks program is being sponsored by the City of Yonkers. This regulation establishes a safety zone in all waters of the Hudson River within a 360 yard radius of the fireworks barge located at approximate position 40°56'14" N 073°54'28" W (NAD 1983), approximately 350 yards northwest of the Yonkers Municipal Pier. The safety zone is in effect from 8:30 p.m. until 10 p.m. on Saturday, July 4, 1998, with a rain date of Sunday, July 5, 1998, at the same time and place. The safety zone prevents vessels from transiting this portion of the Hudson River, and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area.

**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 not been reviewed 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 final rule to be so minimal that a Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on