

significant economic impact on a substantial number of small entities. "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 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 conclusion is based on the fact that three of the bridges presently open after a six-hour notice May 1 through September 30, which is greater than the proposed two-hour notice during those five months.

The Coast Guard believes that the two-hour advance notice October 1 through April 30 is reasonable because the bridges will still open on signal provided the two-hour notice is given. The commercial vessel transits on Gowanus Canal are scheduled in advance by the commercial operators. Providing two-hours notice for bridge openings for the additional seven months of the year, October 1 through April 30, when the bridge formerly opened on signal, should not prevent vessels from still transiting the waterway in a timely manner.

#### 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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### Taking of Private Property

This rule will not effect 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 does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### 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. Section 117.787 is revised to read as follows:

##### § 117.787 Gowanus Canal

The draws of the Ninth Street Bridge, mile 1.4, the Third Street Bridge, mile 1.8, the Carroll Street Bridge, mile 2.0, and the Union Street Bridge, mile 2.1, at Brooklyn, shall open on signal, if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT), Radio Hotline, or the NYCDOT Bridge Operations Office.

Dated: July 19, 2000.

**G.N. Naccara,**

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

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#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD01–99–069]

RIN 2115–AE47

#### Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills and their tributaries, New York

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulations for six New York City bridges: The Pulaski Bridge, at mile 0.6, across Newtown Creek between Brooklyn and Queens; the Greenpoint Avenue Bridge, at mile 1.3, across the Newtown Creek between Brooklyn and Queens; the Grand Street/Avenue Bridge, at mile 3.1, across Newtown Creek (East Branch) between Brooklyn and Queens; the Metropolitan Avenue Bridge, at mile 3.4, across English Kills at Brooklyn; the Borden Avenue Bridge, at mile 1.2, across Dutch Kills at Queens; and the Hunters Point Avenue Bridge, at mile 1.4, across Dutch Kills at Queens all in New York.

The bridge owner asked the Coast Guard to change the regulations to require a two-hour advance notice for openings. It is expected to relieve the bridge owner from the requirement to crew the bridges at all times by using multiple crews of drawtenders and still meet the reasonable needs of navigation.

**DATES:** This rule is effective August 31, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–99–069) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

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

**SUPPLEMENTARY INFORMATION:**

## Regulatory Information

On April 24, 2000, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Newtown Creek, Dutch Kills, English Kills and their tributaries, New York, in the **Federal Register** (65 FR 21683). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

## Background and Purpose

### *Pulaski Bridge*

The Pulaski Bridge, at mile 0.6, across Newtown Creek between Brooklyn and Queens has a vertical clearance of 39 feet at mean high water and 43 feet at mean low water. The existing regulations require the draw to open on signal at all times.

### *Greenpoint Bridge*

The Greenpoint Avenue Bridge, at mile 1.3, across the Newtown Creek between Brooklyn and Queens has a vertical clearance of 26 feet at mean high water and 31 feet at mean low water. The existing regulations require the draw to open on signal at all times.

### *Grand Street/Avenue Bridge*

The Grand Street/Avenue Bridge, at mile 3.1 across the Newtown Creek (East Branch) between Brooklyn and Queens has a vertical clearance of 8 feet above mean high water and 12 feet at mean low water. The existing operating rules

for the Grand Street/Avenue Bridge, listed at 33 CFR 117.801(e), require the bridge to open on signal unless the drawtender is at the Borden Avenue, Hunters Point Avenue or Roosevelt Island Bridges. In this event a notice to the New York City Department of Transportation (NYCDOT) Radio Hotline, or NYCDOT Bridge Operations Office shall be given, resulting in up to a one-hour delay.

### *Metropolitan Avenue Bridge*

The Metropolitan Avenue Bridge, at mile 3.4, across the English Kills at Brooklyn has a vertical clearance of 10 feet above mean high water and 15 feet above mean low water. The existing operating regulations require the draw to open on signal at all times.

### *Borden Avenue Bridge*

The Borden Avenue Bridge, at mile 1.3, across the Dutch Kills has a vertical clearance of 4 feet at mean high water and 9 feet at mean low water. The existing regulations in 33 CFR 117.801(c) require the draw to open on signal if at least a one-hour advance notice is given to the drawtender at the Grand Street/Avenue Bridge, the New York City Department of Transportation Radio Hotline or NYCDOT Bridge Operations Office. In the event the drawtender is at the Roosevelt Island Bridge or the Hunters Point Avenue Bridge, up to an additional half-hour delay may occur.

### *Hunters Point Avenue Bridge*

The Hunters Point Avenue Bridge, at mile 1.4, over the Dutch Kills has vertical clearances of 8 feet at mean high water and 13 feet at mean low water. The existing regulations for the Hunters Point Avenue Bridge in 33 CFR 117.801(d) require the draw to open on signal if at least a one-hour advance notice is given to the drawtender at the Grand Street/Avenue Bridge, the NYCDOT Radio Hotline, or NYCDOT Bridge Operations Office. In the event the drawtender is at the Roosevelt Island Bridge or the Borden Avenue Bridge, up to an additional half-hour delay may occur.

The bridge owner, the New York City Department of Transportation (NYCDOT), submitted bridge opening log data to the Coast Guard for review. The bridge owner plans to operate these bridges with multiple crews of drawtenders. The two-hour advance notice should allow sufficient time for the crews to operate these bridges due to the close proximity of the bridges to each other. Recent yearly openings have been relatively low which will allow the bridge owner to utilize the roving crew concept and still meet the needs of navigation.

The total number of bridge openings at the above bridges from 1991 to 1999 are as follows:

	1991	1992	1993	1994	1995	1996	1997	1998	1999
Pulaski .....	584	426	224	239	206	195	291	518	550
Greenpt .....	1014	880	587	549	498	557	626	920	1016
Grand .....	419	549	224	254	239	189	37	86	91
Borden .....	282	107	141	0	0	105	15	37	61
Hunters .....	264	106	141	0	0	113	15	42	77
Metro .....	301	356	225	310	272	407	432	588	688

The monthly distribution of openings for the above bridges were equally balanced without any specific months when opening requests were significantly greater.

## Discussion of Proposal

This final rule should relieve the bridge owner the burden of crewing each bridge continually, and still meet the reasonable needs of navigation. A two-hour advance notice requirement for bridge openings will enable the bridge owner to utilize multiple crews of drawtenders to open these bridges for vessel traffic. The Coast Guard believes the roving drawtender concept requiring a two-hour advance notice is reasonable and should meet the needs of navigation based upon the low number of yearly

openings at the bridges, the close proximity of the bridges, and the scheduling of commercial vessel transits. The bridges will still open on signal at all times provided that the advance notice is given. This rule is expected to relieve the bridge owner of the burden of crewing each bridge continually and still meet the reasonable needs of navigation.

The Coast Guard is changing the operating regulations for the Grand Street/Avenue Bridge, Borden Avenue Bridge, Hunters Point Bridge, Metropolitan Bridge, Pulaski Bridge and the Greenpoint Bridge, to require a two-hour advance notice for openings at all times.

Paragraph (a)(1) of 33 CFR 117.801 for public and state vessels used for public

safety, will be removed because it is now listed at 33 CFR 117.31 under the general operating regulations for bridges.

## 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 not reviewed it 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). This conclusion is based on the fact that the bridges will open for marine traffic but

will require mariners to provide a two-hour notice.

#### *Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. “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 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 conclusion is based on the fact that the bridges will still open on signal after a two-hour notice is given.

#### *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*

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

#### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government’s having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### *Taking of Private Property*

This rule will not effect 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 does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### *Environment*

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### **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. Section 117.801 is revised to read as follows:

#### **§ 117.801 Newtown Creek, Dutch Kills, English Kills and their tributaries.**

(a) The following requirements apply to all bridges across Newtown Creek, Dutch Kills, English Kills, and their tributaries:

(1) The owners of all bridges across Newtown Creek, Dutch Kills, English Kills and their tributaries listed under this section, shall provide and keep in good legible condition two clearance gauges with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(2) Trains and locomotives shall be controlled so that any delay in opening the draw shall not exceed five minutes. If a train moving toward the bridge has crossed the home signal for the bridge before the request to open the bridge is given, that train may continue across the bridge, but must clear the interlock before stopping.

(b) The draws of the Long Island Railroad bridges, at mile 1.1, across Dutch Kills at Queens, shall open on

signal if at least six-hours advance notice is given to the Long Island Railroad Movement Bureau, except as provided in paragraph (a)(2) of this section.

(c) The draw of the Borden Avenue Bridge, mile 1.2, across Dutch Kills at Queens, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or NYCDOT Bridge Operations Office.

(d) The draw of the Hunters Point Avenue Bridge, mile 1.4, across Dutch Kills at Queens, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or the NYCDOT Bridge Operations Office.

(e) The draw of the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or the NYCDOT Bridge Operations Office.

(f) The draw of the Grand Street/ Avenue Bridge, mile 3.1, across Newtown Creek (East Branch) between Brooklyn and Queens, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or the NYCDOT Bridge Operations Office.

(g) The draws of the Pulaski Bridge, mile 0.6, and the Greenpoint Avenue Bridge, mile 1.3, both across the Newtown Creek between Brooklyn and Queens, shall open on signal if at least a two-hour advance notice given to the New York City Department of Transportation (NYCDOT) Radio Hotline or NYCDOT Bridge Operations Office.

Dated: July 19, 2000.

**G.N. Naccara,**

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

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