

provided the head of the agency or instrumentality has made a prior written request to the Director, NIMA specifying the particular record and the law enforcement activity for which it is sought.

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual.

(9) To either house of Congress, and, to the extent of the matter within its jurisdiction, any committee or subcommittee or joint committee of Congress.

(10) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the GAO.

(11) Under an order of a court of competent jurisdiction.

(12) To a consumer reporting agency in accordance with section 3711(f) of title 31.

(d) Except for disclosures made pursuant to paragraphs (c)(1) and (2) of this section, an accurate accounting will be kept of the data, nature and purpose of each disclosure of a record to any person or agency, and the name and address of the person or agency to whom the disclosure was made. The accounting of disclosures will be made available for review by the subject of a record at his request except for disclosures made pursuant to paragraph (c)(7) of this section. If an accounting of disclosure has been made, any person or agency contained therein will be informed of any correction or notation of dispute made pursuant to section 320.6 of this part.

#### **§ 320.10 Fees.**

Individuals may request copies for retention of any documents to which they are granted access to NIMA records pertaining to them. Requesters will not be charged for the first copy of any records provided; however, duplicate copies will require a charge to cover costs of reproduction. Such charges will be computed in accordance with 32 CFR part 310.

#### **§ 320.11 Penalties.**

The Privacy Act of 1974 (5 U.S.C. 552a(i)(3)) makes it a misdemeanor subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. The Act also establishes similar penalties for violations by NIMA employees of the Act or regulations established thereunder.

#### **§ 320.12 Exemptions.**

(a) *Exempt systems of record.* All systems of records maintained by the NIMA and its components shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and that is required by Executive Order to be withheld in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records, including those not otherwise specifically designated for exemptions herein, which contain isolated items of properly classified information.

(b) [Reserved].

Dated: October 11, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 117**

**[CGD01-01-182]**

**RIN 2115-AE47**

#### **Drawbridge Operation Regulations: Hutchinson River, Eastchester Creek, NY**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the drawbridge operation regulations that govern the operation of the Pelham Parkway Bridge, mile 0.4, across the Hutchinson River in New York. This temporary rule, in effect from November 15, 2001 through May 12, 2002, requires the bridge to open on signal, after a one-hour advance notice is given, between 7 a.m. and 5 p.m., Monday through Friday. This action is necessary to facilitate the safe removal of construction workers and equipment from the moveable bridge structure at times when the bridge must open for vessel traffic.

**DATES:** This temporary final rule is effective from November 15, 2001 through May 12, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7

a.m. to 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joe Schmied, Project Officer, First Coast Guard District, at (212) 668-7165.

#### **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 a Notice of proposed rulemaking in the **Federal Register**.

This closure is not expected to have any significant impact on navigation because vessel traffic on the Hutchinson River is mostly commercial vessels that must schedule their transits at or near high tide. The commercial vessels that require openings normally call the bridge in advance when scheduling their transits. The Coast Guard and the bridge owner contacted all the commercial waterway users and facilities and it was determined as a result of that coordination that the one-hour advance requirement would not adversely effect any existing waterway operators since they call the bridge in advance of requested openings normally.

Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to facilitate necessary electrical and mechanical maintenance at the bridge to insure the continued safe reliable operation of the bridge.

##### **Background and Purpose**

The Pelham Parkway Bridge has a vertical clearance of 13 feet at mean high water and 20 feet at mean low water in the closed position. The current operating regulations for the bridge, listed at 33 CFR 117.793, require the bridge to open on signal at all times.

The bridge owner, New York City Department of Transportation (NYCDOT), requested a temporary change to the operating regulations governing the Pelham Parkway Bridge to facilitate the safe evacuation of construction workers and equipment from the bridge when the bridge is required to open for vessel traffic. This temporary final rule will require a one-hour advance notice for openings, 7 a.m. to 5 p.m., Monday through Friday, from November 15, 2001 through May 12, 2002. The Coast Guard believes this temporary change to the drawbridge operation regulations is reasonable and will meet the present needs of navigation based upon coordination

with the operators that use this waterway.

**Regulatory Evaluation**

This temporary 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; Feb. 26, 1979). The Coast Guard expects the economic impact of this temporary 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 the bridge will continue to open at all times for vessel traffic after a one-hour advance notice is given.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) we considered whether this temporary final 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 bridge will continue to open for vessel traffic at all times after a one-hour advance notice is given.

**Collection of Information**

This temporary 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 temporary final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this temporary 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 temporary final rule and concluded that, under Section 2.B.2., Figure 2-1, paragraph

(32)(e), of Commandant Instruction M16475.1C, this temporary final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this temporary final rule.

**Indian Tribal Governments**

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**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. From November 15, 2001, through May 12, 2002, § 117.T793 is temporarily amended by adding a new paragraph (d) to read as follows:

**§ 117.T793 Hutchinson River (Eastchester Creek).**

\* \* \* \* \*

(d) The Pelham Parkway Bridge, mile 0.4, shall open on signal; except that,

from 7 a.m. to 5 p.m., Monday through Friday, the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

Dated: October 3, 2001.

**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**

[CGD01-01-157]

**Drawbridge Operation Regulations: Harlem River, NY**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Macombs Dam Bridge, mile 3.2, across the Harlem River in New York City, New York. This deviation from the regulations will allow the bridge to remain in the closed position from November 1, 2001 through December 30, 2001. This temporary deviation is necessary to facilitate necessary repairs at the bridge.

**DATES:** This deviation is effective from November 1, 2001 through December 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:**

The Macombs Dam Bridge, mile 3.2, across the Harlem River has a vertical clearance in the closed position of 27 feet at mean high water and 32 feet at mean low water. The existing drawbridge operating regulations at 33 CFR 117.789 require the bridge to open on signal from 10 a.m. to 5 p.m. if at least a four-hour notice is given.

The bridge owner, The New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operating regulations to facilitate scheduled maintenance, replacement of structural steel and the bridge roadway deck.

This deviation to the operating regulations will allow the bridge to remain in the closed position from November 1, 2001 through December 30, 2001.