

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.

### 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.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1D, 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. On November 3, 2002, from 10 a.m. to 5 p.m., § 117.789 paragraph (c) is temporarily suspended and a new paragraph (h) is added to read as follows:

#### § 117.789 Harlem River.

\* \* \* \* \*

(h) The draws of the bridges at 103rd Street, mile 0.0, 3rd Avenue, mile 1.9, 145th Street, mile 2.8, Macombs Dam, mile 3.2, 207th Street, mile 6.0, and the two Broadway Bridges, mile 6.8, shall open on signal if at least four-hours notice is given to the New York City Highway Radio (Hotline) Room. The Willis Avenue Bridge, mile 1.5, and Madison Avenue Bridge, mile 2.3, need not open for vessel traffic.

3. On November 3, 2002, from 8:30 a.m. to 3 p.m., in § 117.801, paragraph (g) is temporarily suspended and a new paragraph (h) is added to read as follows:

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

\* \* \* \* \*

(h) The draw of the Pulaski Bridge, mile 0.6, across Newtown Creek, need not open for vessel traffic. The Greenpoint Avenue Bridge, mile 1.3, across Newtown Creek 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 NYCDOT Bridge Operations Office.

Dated: October 3, 2002.

**J.L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 02-26008 Filed 10-11-02; 8:45 am]

**BILLING CODE 4910-15-P**

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD01-02-112]

RIN 2115-AE47

#### Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary final rule governing the operation of the Atlantic Beach Bridge, at mile 0.4, across Reynolds Channel at New York. This rule allows the bridge owner to open only one lift span for bridge openings, 7 a.m. to 5 p.m., from November 1, 2002 through November 30, 2002. Two span openings will be granted, provided a two-hour advance notice is given, from one hour before to one hour after predicted high tide. This single span operation is necessary to facilitate bridge painting operations at the bridge.

**DATES:** This rule is effective from November 1, 2002 through November 30, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket (CGD01-02-112) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110-3350, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

The Coast Guard believes notice and comment are unnecessary because the bridge painting work that will be performed under this temporary final rule is a continuation, for one extra month, of work previously approved by a temporary final rule published on April 25, 2002 (67 FR 20442) entitled

Drawbridge Operation Regulations, Massachusetts.

This second temporary final rule will continue the temporary operating schedule for an extra month in order to complete the work at the bridge. The mariners who normally use this waterway have agreed to the continuation of the single lift span operation from November 1, 2002 through November 30, 2002.

Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest because the bridge painting work must continue until the end of November to finish this project.

#### Background and Purpose

The Atlantic Beach Bridge has a vertical clearance of 25 feet at mean high water, and 30 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at § 117.799.

The bridge owner, Nassau County Bridge Authority, requested a temporary regulation to facilitate painting operations at the bridge. The Coast Guard and the bridge owner held a meeting with the mariners who normally use this waterway to coordinate this bridge painting project and minimize the impacts on the marine transportation system. The single span operation was determined to be acceptable to the mariners because double span openings will be available from one hour before to one hour after the predicted high tide, provided a two-hour advance notice is given.

The bridge owner requested a second temporary final rule to complete the bridge painting that will not be finished by October 31, 2002, the end date of the first temporary final rule. The mariners agreed to the extension of the temporary operating schedule through the end of November to allow the bridge painting work to be completed.

#### Discussion of Rule

The drawbridge operation regulations at § 117.799, for the Atlantic Beach Bridge, at mile 0.4, across the Reynolds Channel, will be temporarily changed. From November 1, 2002 through November 30, 2002, the bridge will open on signal; however, only one lift span will be opened for the passage of vessel traffic between 7 a.m. to 5 p.m., daily. From 4 p.m. to 7 p.m. on weekdays, and from 11 a.m. to 9 p.m. on weekends and holidays, the bridge will open on signal only on the hour and half hour. From one hour before to one hour after predicted high tide, two lift spans will be opened for the passage of vessel traffic, provided at least a two-

hour advance notice is given by calling the number posted at the bridge.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 single span operation was found acceptable by the mariners who normally use this waterway.

#### 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. The term "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 single span operation was found acceptable by the mariners who normally use this waterway.

#### 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

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 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.

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#### 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.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant

Instruction M16475.1d, 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**.

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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 1, 2002 through November 30, 2002, § 117.799 is temporarily amended by suspending paragraph (e) and adding a new paragraph (k) to read as follows:

#### § 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

\* \* \* \* \*

(k) The Atlantic Beach Bridge, mile 0.4, across Reynolds Channel, from November 1, 2002 through November 30, 2002, shall open on signal, except as follows:

(1) Only one lift span need be opened for the passage of vessel traffic between 7 a.m. to 5 p.m., daily, except as provided in paragraph (k)(3) of this section.

(2) From 4 p.m. to 7 p.m. on weekdays, and from 11 a.m. to 9 p.m. on weekends and holidays, the draw shall open on signal only on the hour and half hour, except as provided in paragraph (k)(3) of this section.

(3) From one hour before to one hour after the predicted high tide, two lift spans may be opened for the passage of vessel traffic, provided at least a two-hour advance notice is given by calling the number posted at the bridge. For the purposes of this section, predicted high tide occurs 10 minutes earlier than that predicted for Sandy Hook, as given in the tide tables published by the National Oceanic and Atmospheric Administration.

Dated: September 30, 2002.

**V.S. Crea,**  
*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*  
[FR Doc. 02-26009 Filed 10-11-02; 8:45 am]  
**BILLING CODE 4910-15-P**

### POSTAL SERVICE

#### 39 CFR Part 111

##### Domestic Mail Manual Change To Revise the Five Percent Error Limit for Sequenced Mailings

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts a proposal to revise Domestic Mail Manual (DMM) M050 to clarify how additional postage is assessed for Standard Mail Enhanced Carrier Route (ECR) and Periodicals carrier route mailings found to be out of sequence. Concurrent with the DMM amendment, the Postal Service will implement new policies and guidelines for assessing additional postage for Standard Mail and Periodicals carrier route mailings found to be out of sequence. Under the revised policies, for all mail required to be sequenced, no more than 5 percent of the total pieces in the entire carrier route portion of the mailing may be out of sequence.

**EFFECTIVE DATE:** This final rule is effective November 14, 2002.

##### FOR FURTHER INFORMATION CONTACT:

Mary Bronson, (703) 292-3539.

**SUPPLEMENTARY INFORMATION:** As a result of classification reform (Postal Rate Commission Docket No. MC95-1), the Postal Service required that both Standard Mail items and Periodicals mail claiming the high density or saturation rates be in walk sequence within a tray or package. For Standard Mail items, basic carrier route rate mail was required to be in either walk-sequence or line-of-travel (LOT) order. With the implementation of Commission Docket No. 2000-1, a sequencing requirement (either walk-sequence or LOT) was added for Periodicals basic carrier route rates.

Current standards state that, for each carrier route receiving mail, no more than 5 percent of the total pieces for each carrier route may be out of sequence or sorted to the wrong carrier route. The standard establishing a 5 percent limit for missequenced or missorted mail to an individual carrier route may cause confusion because it appears that the Postal Service has established a separate standard of compliance for sequencing as compared

to other eligibility requirements for ECR or carrier route rates. Actually, the Postal Service routinely uses tolerances when evaluating discounted mailings to ensure compliance with eligibility standards. This policy change will standardize the procedure for determining eligibility for carrier route rates with the procedures for determining eligibility for other workshare discounts.

In addition, the 5 percent limit for missequenced or missorted mail currently is applied to an individual carrier route because, until recently, the Postal Service was able to detect such errors only at the delivery unit and could not easily determine the percentage of error for the entire mailing. Due to advances in technology, this is no longer the case. Tools to assist postal employees when evaluating discounted mailings either during the acceptance process or when conducting audits are now available.

In view of the capabilities provided by these tools, the Postal Service is amending the current standards to apply the 5 percent limit for walk-sequence and LOT errors to the entire mailing, not to an individual carrier route.

One such tool is the Mailing Evaluation Readability and Look-up Instrument (MERLIN) currently being deployed to business mail entry units (BMEUs) and detached mail units (DMUs). The Postal Service will announce when it will start using MERLIN to determine sequencing accuracy at a future date. At that time, the Postal Service will use the established statistically valid sampling methods BMEU and DMU employees currently use when operating MERLIN to determine whether the 5 percent error limit for sequencing is exceeded.

On August 8, 2001, the Postal Service published a proposed rule in the **Federal Register** (66 FR 41485) amending the postal standards to clarify the application of the 5 percent error limit for carrier route sequenced mailings. The Postal Service received eight comments, all of which generally supported the proposal. Most of the comments also included questions and suggestions about how compliance with the sequencing standards would be determined and how any postage adjustments would be assessed. Because these administrative issues need not be addressed in the DMM standards, the Postal Service will clarify these policy issues in this notice and amend the DMM by deleting section M050.2.0, Accuracy, for out-of-sequence mail.

Six commenters asked that the Postal Service reconsider the proposed method for calculating additional postage on