

*27 CFR Part 7*

Advertising, Beer, Customs duties and inspection, Imports, Labeling, Reporting and recordkeeping requirements, Trade practices.

*27 CFR Part 13*

Administrative practice and procedure, Alcohol and alcoholic beverages, Labeling.

**Authority and Issuance**

Notice No. 954 was issued under the authority of 27 U.S.C. 205.

Signed: December 18, 2002.

**Bradley A. Buckles,**

*Director.*

[FR Doc. 02-32614 Filed 12-26-02; 8:45 am]

**BILLING CODE 4810-31-P**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD01-02-143]

RIN 2115-AE47

**Drawbridge Operation Regulations;  
Jamaica Bay and Connecting  
Waterways, NY**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the New York City highway bridge, at mile 0.8, across Mill Basin on Belt Parkway at New York City, New York. This temporary rule would allow the bridge to remain closed to vessel traffic from 7 a.m. on February 24, 2003 through 5 p.m. on April 14, 2003. This action is necessary to facilitate the installation of median safety barriers at the bridge.

**DATES:** Comments must reach the Coast Guard on or before January 27, 2003.

**ADDRESSES:** You may mail comments to Commander (obr), First Coast Guard District Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110-3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for

inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

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

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

The Coast Guard has determined that good cause exists under the Administrative Procedure Act 5 U.S.C. 553(d)(3) for a shortened comment period of thirty days and for making this rule effective less than thirty days after publication in the **Federal Register**. The Coast Guard believes this is reasonable because the work scheduled at the bridge should be conducted between February and April to take advantage of the time period when the bridge has the fewest number of opening requests. The Coast Guard believes that any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest because the work to be performed under this temporary rule is necessary safety modifications that are scheduled to be performed when the bridge receives the fewest number of opening requests.

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-02-143), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The New York City highway bridge has a vertical clearance of 34 feet at mean high water, and 39 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR § 117.795(b).

The bridge owner, New York City Department of Transportation, requested a temporary bridge closure to install median safety barriers between the vehicular travel lanes at the bridge.

The bridge presently has no median safety barriers between the vehicular travel lanes that pass over the moveable lift spans at the bridge. There have been many serious head on automobile accidents at this bridge as a result of the absence of median safety barriers.

The average traffic count is 140,000 vehicles a day. There have been seven (7) head-on travel lane crossover accidents over the past several years, four (4) resulting in fatalities. These accidents resulted from the absence of a median safety barrier separating the opposite vehicular travel lanes.

The installation of the median safety barriers is considered necessary safety repairs that should be performed without delay.

In order to facilitate this structural work the bridge must remain in the closed position for the passage of vessel traffic from 7 a.m. on February 24, 2003 through 5 p.m. on April 14, 2003.

The time frame requested to perform this necessary safety work, February 24, 2003 through April 14, 2003, is the best time to perform this work because the bridge has historically had very few requests to open during that time period. In 2001 only one commercial vessel transit required a bridge opening and in 2002 only three commercial vessel transits required bridge openings between February 24 and April 14.

During the last ten days of the above closure the bridge will be balanced and tested. A limited number of bridge openings would be available for the passage of vessel traffic during the time period the bridge will be balanced and tested.

The Coast Guard believes this proposed closure is reasonable because this work is essential for public safety and will be performed when the bridge has the fewest number of requests to open.

**Discussion of Proposed Rule**

Under this temporary rule in § 117.795, paragraph (b) will be temporarily suspended and a new temporary paragraph (d) will be added to allow the New York City highway

bridge, mile 0.8, across Mill Basin, to remain closed to vessel traffic from 7 a.m. on February 24, 2003 through 5 p.m. on April 14, 2003.

### Regulatory Evaluation

This proposed 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 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, Feb. 26, 1979).

We expect the economic impact of this proposed 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 waterway users who normally navigate Mill Basin are predominantly recreational vessels. There are four commercial facilities, two recreational vessel marinas, and two recreational/commercial vessel repair yards upstream from the bridge.

The proposed time period is historically the time period during which the fewest requests are made to open the bridge. Between February 24 and April 14, 2001, only one commercial vessel transit required the bridge to open. Only three commercial vessel transits required bridge openings during the same period in 2002.

Vessels that can pass under the bridge without a bridge opening may do so at all times.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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 of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the waterway users who normally navigate Mill Basin are predominantly recreational vessels. There are four commercial facilities, two recreational vessel marinas, and two recreational/

commercial vessel repair yards upstream from the bridge.

The proposed time period is historically the time period during which the fewest requests are made to open the bridge. Between February 24 and April 14, 2001, only one commercial vessel transit required the bridge to open. Only three commercial vessel transits required bridge openings during the same period in 2002.

Vessels that can pass under the bridge without a bridge opening may do so at all times.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Collection of Information

This proposed rule would call 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 proposed 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 a 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

### Energy Effects

We have analyzed this proposed 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 considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1d, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have

a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

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

Bridges.

#### Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 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 February 24, 2003 through April 14, 2003, in § 117.795, paragraph (b) is temporarily suspended, and a new temporary paragraph (d) is added, to read as follows:

#### § 117.795 Jamaica Bay and Connecting Waterways.

\* \* \* \* \*

(d) The draw of the New York City highway bridge, mile 0.8, across Mill Basin on Belt Parkway, need not open for the passage of vessel traffic from 7 a.m. on February 24, 2003 through 5 p.m. on April 14, 2003.

Dated: December 18, 2002.

**J.L. Grenier,**

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

[FR Doc. 02–32688 Filed 12–23–02; 2:42 pm]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[COTP Los Angeles-Long Beach 02–005]

RIN 2115–AA97

#### Security Zones; Liquefied Hazardous Gas Tank Vessels San Pedro Bay, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise current safety zone regulations by establishing security zones around and under all liquefied hazardous gas (LHG) tank vessels located on San Pedro Bay, California, in and near the ports of Los Angeles and Long Beach. These proposed security zones are needed for national security reasons to protect the public and ports from potential

subversive acts. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port Los Angeles-Long Beach.

**DATES:** Comments and related material must reach the Coast Guard on or before February 7, 2003.

**ADDRESSES:** You may mail comments and related material to U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, Waterways Management, 1001 S Seaside Avenue, Building 20, San Pedro, California, 90731. Waterways Management maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Waterways Management between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Rob Griffiths, Assistant Chief of Waterways Management, (310) 732–2020.

#### SUPPLEMENTARY INFORMATION:

#### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP Los Angeles-Long Beach 02–005), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

In our final rule, we will include a concise general statement of the comments received and identify any changes from the proposed rule based on the comments.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Waterways Management at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

#### Background and Purpose

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and growing tensions in Iraq have made it prudent for U.S. ports to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) (the "Magnuson Act") and implementing regulations promulgated by the President in Subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations.

In this particular rulemaking, to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against a LHG tank vessel would have on the public interest, the Coast Guard proposes to revise current LHG safety zone regulations by establishing security zones around and under any LHG tank vessels entering, departing, or moored within the ports of Los Angeles and Long Beach. These proposed security zones will help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against LHG tank vessels.

Current regulations issued under 33 CFR 165.1151 provide for safety zones around LHG tank vessels that are anchored, moored, or underway near the Los Angeles-Long Beach port areas. However, these safety zones are inadequate to address increased security requirements for LHG tank vessels.

On January 28, 2002, we published a temporary final rule (TFR) entitled "Security Zones; San Pedro Bay, California" in the **Federal Register** (67