

Saturday in July. A notice of implementation of this section will be published annually in the **Federal Register** and disseminated through Fifth District Local Notice to Mariners and marine Safety Radio Broadcast on VHF-FM marine band radio channel 22 (157.1 MHz)

Dated: March 5, 2004.

**Sally Brice-O'Hara,**

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

[FR Doc. 04-7791 Filed 4-5-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-04-019]

RIN 1625-AA09

#### **Drawbridge Operation Regulations; Harlem River, Newtown Creek, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the drawbridge operating regulations governing the operation of the Willis Avenue Bridge, mile 1.5, the Third Avenue Bridge, mile 1.9, the Madison Avenue Bridge, mile 2.3, all across the Harlem River and the Pulaski Bridge, mile 0.6, across Newtown Creek. This notice of proposed rulemaking would allow the bridge owner to keep the above bridges closed for periods of time on the first Sunday in both May and November in order to facilitate the running of the Five Borough Bike Tour and the New York City Marathon, respectively.

**DATES:** Comments must reach the Coast Guard on or before June 7, 2004.

**ADDRESSES:** You may mail comments and related material to Commander (obr), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, 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 (212) 668-7165. 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:** Joe Schmied, Project Officer, First Coast Guard District, (212) 668-7195.

#### **SUPPLEMENTARY INFORMATION:**

##### **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 (CGD01-04-019), 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 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 Willis Avenue Bridge, mile 1.5, across the Harlem River has a vertical clearance of 24 feet at mean high water (MHW) and 30 feet at mean low water (MLW) in the closed position.

The Madison Avenue Bridge, at mile 2.3, across the Harlem River has a vertical clearance of 25 feet at mean high water and 29 feet at mean low water in the closed position.

The Third Avenue Bridge, at mile 1.9, across the Harlem River has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position.

The Pulaski Bridge across Newtown Creek, mile 0.6, has a vertical clearance of 39 feet at MHW and 43 feet at MLW in the closed position. The current operating regulations for the Pulaski Bridge listed at 117.801(g) require it to open on signal if at least a two-hour advance notice is given.

The current operating regulations for the Willis Avenue, Third Avenue, and Madison Avenue bridges, require the

bridges to open on signal from 10 a.m. to 5 p.m., if at least four-hours notice is given.

The owner of the bridges, New York City Department of Transportation requested a change to the operating regulations for the Willis Avenue Bridge, the Third Avenue Bridge, the Madison Avenue Bridge, and the Pulaski Bridge, to facilitate the running of the Five Borough Bike Tour and the New York City Marathon on the first Sunday in both May and November, respectively. They requested the bridges be closed for various extended periods of time between the hours of 8 a.m. and 5 p.m.

Traditionally, these bridge closures were accomplished each year by publishing a temporary final rule in the **Federal Register** with the bridge closures occurring at various times ranging from 8 a.m. through 5 p.m. The closure times were established to coincide with the race route through the city.

This proposed rule would make the traditional closures part of the permanent drawbridge operation regulations. New York City Department of Transportation would provide the exact dates and times for each bridge several weeks in advance of the race. Those dates and times would be published in the Local Notice to Mariners.

The Coast Guard believes this rule is reasonable because it would simplify the traditional bridge closure process. Additionally, the bridge closures are on Sundays when the bridges normally receive no requests to open.

##### **Discussion of Proposal**

This proposed change would amend 33 CFR 117.789 by revising paragraph (c), which identifies the operating schedule of the Willis Avenue Bridge, the Third Avenue Bridge, and the Madison Avenue Bridge. This proposed rule would also amend 33 CFR 117.801 by revising paragraph (g), which identifies the operating schedule for the Pulaski Bridge.

This proposed rule would allow the bridges to remain in the closed position for various extended periods of time between the hours of 8 a.m. and 5 p.m. on the first Sunday in both May and November to facilitate the running of the Five Borough Bike Tour and the New York City Marathon.

The Five Borough Bike Tour is run on the first Sunday in May. During this event the Third Avenue and Madison Avenue bridges, across the Harlem River, are usually closed from 8 a.m. to 12 p.m. and the Pulaski Bridge, across

Newtown Creek, is normally closed from 9:30 a.m. to 11:30 a.m.

The New York City Marathon is run on the first Sunday in November. During this event the Willis Avenue and Madison Avenue bridges, across the Harlem River, are normally closed from 10 a.m. to 5 p.m. and the Pulaski Bridge, across Newtown Creek, is normally closed from 8:30 a.m. to 3 p.m.

The exact dates and times each bridge will be closed for the future running of the Five Borough Bike Tour and the New York City Marathon may be slightly changed and will be published in the Local Notice to Mariners several weeks in advance of each respective event.

### 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 Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.

This conclusion is based on the fact that the bridge closures are of short duration on a Sunday in May and November when the bridges normally do not receive any requests to open.

### 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 bridge closures are of short duration on a Sunday in May and November when the bridges normally do not receive any requests to open.

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 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.

### 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 analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

### 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; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.789(c) to read as follows:

**§ 117.789 Harlem River.**

\* \* \* \* \*

(c)(1) The draws of the bridges at 103 Street, mile 0.0, Willis Avenue, mile 1.5, Third Avenue, mile 1.9, Madison Avenue, mile 2.3, 145 Street, mile 2.8, Macombs Dam, mile 3.2, 207 Street, mile 6.0, and the two Broadway Bridges, mile 6.8, shall open on signal from 10 a.m. to 5 p.m. if at least four hours notice is given to the New York City Highway Radio (Hotline) Room.

(2) The Willis Avenue Bridge, mile 1.5, the Third Avenue Bridge, mile 1.9, and the Madison Avenue Bridge, mile 2.3, need not open for vessel traffic between 8 a.m. and 5 p.m. on the first Sunday in May and the first Sunday in November. The exact time and date of each bridge closure will be published in the Local Notice to Mariners several weeks prior to the first Sunday of both May and November.

\* \* \* \* \*

3. Revise § 117.801(g) to read as follows:

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

\* \* \* \* \*

(g)(1) The draw of the Pulaski Bridge, mile 0.6, and the Greenpoint Avenue Bridge, mile 1.3, shall open on signal if at least a two hour advance notice is given to the New York City Department of Transportation Radio (Hotline) Room.

(2) The Pulaski Bridge, mile 0.6, need not open for vessel traffic between 8 a.m. and 5 p.m. on the first Sunday in both May and November. The exact time and date of the bridge closure will be published in the Local Notice to Mariners several weeks prior to the first Sunday of both May and November.

Dated: March 25, 2004.

**John L. Grenier,**

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

[FR Doc. 04-7790 Filed 4-5-04; 8:45 am]

BILLING CODE 4910-15-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[R04-OAR-2003-FL-0001-200414(b); FRL-7643-2]

**Approval and Promulgation of Implementation Plans: Florida; Broward County Aviation Department Variance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of Florida for the purpose of a department order granting a variance from Rule 62-252.400 to the Broward County Aviation Department. EPA believes that this proposed revision to the SIP is approvable based on the June 23, 1993, EPA policy memorandum entitled, *Impact of the Recent Onboard Decision on Stage II Requirements in Moderate Nonattainment Areas* which indicates that a Stage II program is not a mandatory requirement for areas classified "moderate" or below, upon EPA's promulgation for On-board Refueling Vapor Recovery systems.

In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before May 6, 2004.

**ADDRESSES:** Comments may be submitted by mail to: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **SUPPLEMENTARY INFORMATION** (sections III.B.1. through 3.) which is published in the Rules Section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: March 24, 2004.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 04-7646 Filed 4-5-04; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 1, 61, and 69**

[CC Docket No. 96-128; DA 04-774]

**Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; reply comment period extended.

**SUMMARY:** On March 24, 2004, the Commission granted a request by Martha Wright *et al.* to extend the deadline for filing reply comments regarding a Petition For Rulemaking or, in the Alternative, Petition To Address Referral Issues In A Pending Rulemaking (*Wright Petition*) filed in CC Docket No. 96-128.

**DATES:** Reply comments are due on or before April 21, 2004.

**ADDRESSES:** Federal Communications Commission, Marlene H. Dortch, Office of the Secretary, 445 12th Street SW., TW-A325, Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for information on additional instructions for filing paper copies.

**FOR FURTHER INFORMATION CONTACT:** Joi Roberson Nolen, Wireline Competition Bureau, 202-418-1520.

**SUPPLEMENTARY INFORMATION:** On December 31, 2003, the Wireline Competition Bureau released the *Wright Public Notice* seeking comment on a Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues In a Pending Rulemaking (*Wright Petition*) filed by Martha Wright and other prison inmate and non-inmate petitioners (jointly, "the Wright Petitioners"). The *Wright Public Notice* stated that comments would be due 20 days after publication of the public notice in the **Federal Register**, and reply comments would be due 30 days after **Federal Register** publication. The **Federal Register** published the *Wright Public Notice* on January 20, 2004. See Implementation of the Pay Telephone