

24490). In the document, FDA reopened the comment period until June 9, 2005, for the agency's proposed rule entitled "Prevention of Salmonella Enteritidis in Shell Eggs During Production" that published in the **Federal Register** of September 22, 2004 (69 FR 56824). FDA reopened the comment period to receive comment and other information regarding industry practices and programs that prevent *Salmonella* Enteritidis (SE)-monitored chicks from becoming infected by SE during the period of pullet rearing until placement into laying hen houses. The agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

**DATES:** Submit written or electronic comments by July 25, 2005.

**ADDRESSES:** You may submit comments, identified by Docket No. 2000N-0504, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Agency Web site: <http://www.fda.gov/dockets/ecomments>.

Follow the instructions for submitting comments on the agency Web site.

- E-mail: [fdadockets@oc.fda.gov](mailto:fdadockets@oc.fda.gov). Include Docket No. 2000N-0504 in the subject line of your e-mail message.

- FAX: 301-827-6870.

- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**Instructions:** All submissions received must include the agency name and docket number or regulatory information number for this rulemaking. All comments received will be posted without change to <http://www.fda.gov/ohrms/dockets/default.htm>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.fda.gov/ohrms/dockets/default.htm> and insert the relevant docket number, 2000N-0504, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Lou Carson, Center for Food Safety and Applied Nutrition (HFS-032), Food and

Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-2130.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In the **Federal Register** of May 10, 2005, FDA reopened the comment period until June 9, 2005, for the agency's proposed rule entitled "Prevention of Salmonella Enteritidis in Shell Eggs During Production" that published in the **Federal Register** of September 22, 2004. FDA reopened the comment period to receive comment and other information regarding industry practices and programs that prevent SE-monitored chicks from becoming infected by SE during the period of pullet rearing until placement into laying hen houses. Specifically, FDA requested additional comment and supportive data or other information on the following questions:

1. How many pullet growing facilities are there in the United States? What is the range in the number of houses on those facilities?

- What percentage of pullet growers are under programs or have practices aimed at preventing SE-monitored chicks from becoming infected by SE during the period of pullet rearing until placement into layer hen houses?

- Do State or regional Egg Quality Assurance Programs include provisions to prevent SE-monitored chicks from becoming infected by SE during the period of pullet rearing until placement into layer hen houses? How effective have the pullet programs (whatever the programs entail—cleaning, testing, etc.) been in reducing the prevalence of SE in layer flocks? How is effectiveness measured?

2. During pullet rearing, what programs or industry practices are currently taken to prevent SE-monitored chicks from becoming infected by SE during the period of pullet rearing until placement into layer hen houses?

- Are pullets, or their environment, tested for SE between the time they are procured as chicks and the time they enter layer houses? If so, when? When tested, approximately how often do pullets or pullet environments test positive? What happens after a positive test?

- Is vaccination used as a preventive measure, if so, when and how?

- What cleaning and disinfecting practices are common?

- Are measures taken to reduce the prevalence of rodents and pests in the pullet rearing houses?

Interested persons were given until June 9, 2005, to submit comments and supportive data or other information.

The agency has received requests for an extension of the reopened comment period. The requests conveyed concern that the current 30-day comment period does not allow sufficient time to develop meaningful responses for submission.

FDA has considered the requests for additional time to submit comments and is extending the reopened comment period for an additional 45 days, until July 25, 2005. The agency believes that a 45-day extension allows adequate time for interested persons to submit comments without significantly delaying the agency's progress in publishing a final rule. However, the agency does not anticipate granting any further extensions of the reopened comment period.

##### **II. Comments**

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 1, 2005.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 05-11407 Filed 6-7-05; 8:45 am]

**BILLING CODE 4160-01-S**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

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

[CGD05-05-049]

RIN 1625-AA09

#### **Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulations that govern the operation of the Berkley Bridge across the Eastern Branch of the Elizabeth River, mile 0.4, in Norfolk, Virginia. The proposal would extend the morning and evening rush hour closure periods so that the morning rush hour period starts at 5 a.m. and ends at 9 a.m., and the evening rush hour starts at 3 p.m. and

ends at 7 p.m., Monday through Friday, except Federal holidays. The proposed change would relieve vehicular traffic congestion during the weekday rush hours while still providing for the reasonable needs of navigation.

**DATES:** Comments and related material must reach the Coast Guard on or before July 25, 2005.

**ADDRESSES:** You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004. The Fifth Coast Guard District 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 Commander (obr), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gary Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6629.

#### **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 CGD05-05-049, 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 a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals 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 Commander (obr), Fifth Coast Guard District 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**

On behalf of the City of Norfolk, the Virginia Department of Transportation (VDOT) who owns and operates this lift-

type bridge, requested a change to the existing regulations for the Berkley Bridge. The current regulation allows the Berkley Bridge, at mile 0.4 in Norfolk, to remain closed one hour prior to the published start of a scheduled marine event regulated under §100.501, and remain closed until one hour following the completion of the event unless the Patrol Commander designated under §100.501 allows the bridge to open for commercial vessel traffic. In addition, the bridge shall open on signal any time except from 5:30 a.m. to 9 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays, and shall open at any time for vessels with a draft of 22 feet or more, provided that at least 12 hours advance notice has been given to the Berkley Bridge Traffic Control Room and shall open on signal at any time for a vessel in distress.

The purpose of this proposal is to help alleviate the current highway traffic congestion which has increased. The Berkley Bridge is a principle arterial route that serves as the major evacuation highway in the event of emergencies. Weekday vehicular traffic counts submitted by VDOT revealed that in 2002 and 2003, the Berkley Bridge has experienced a six percent (or 78,898 car) increase in traffic flow during the morning and evening rush hours.

Also, on September 18, 2003, the Hampton Roads area experienced severe damage as a result of Hurricane Isabel. Due to a heavy storm surge along the entire coastal area, the Portsmouth Midtown Tunnel was flooded. While the tunnel was undergoing an evaluation and repairs, a significant amount of vehicular traffic that used the tunnel on a daily basis was shifted onto the Berkley Bridge. In its attempt to manage this increase in road traffic and associated safety concerns, VDOT requested an immediate expansion of the current authorized rush hour closure periods of the Berkley Bridge. The Coast Guard responded by issuing a temporary final rule, until the repairs were completed that extended the morning and evening closure periods and suspended the provision allowing openings for deep-draft commercial vessels. The temporary final rulemaking implemented for the Berkley Bridge to stay open a little longer in the morning and evening was successful in easing the commute for thousands of motorists.

As a result of the temporary adjustments to the morning and evening rush hour closure periods caused by Hurricane Isabel, the current proposal was offered to help alleviate the growing vehicular traffic congestion and to

increase public safety, while still balancing the needs of marine and vehicular traffic.

##### **Discussion of Proposed Rule**

The Coast Guard proposes to amend the regulations governing the Berkley Bridge, mile 0.4, at Norfolk, VA, at 33 CFR 117.1007, by revising paragraphs (c)(1) and (2) thereby, expanding the time periods in which the drawbridge may remain closed to vessels to be 5 a.m. to 9 a.m. and 3 p.m. to 7 p.m.

The proposal would change the telephone number to the Berkley Bridge Traffic Control Room from “(804) 494-2424” to “(757) 494-2490”. The telephone number change would accurately reflect the new telephone number to this Bridge.

Also, the surplus language currently stated in 33 CFR 117.1007(c)(4) would be removed to be consistent with the general operating regulations at 33 CFR 117.31. The provision delineated at 33 CFR 117.31(b)(2) already requires that the draw shall open as soon as possible for vessels in distress and is no longer required to be published in each specific bridge regulation. Text modifications would be consistent with the proposed changes to be made in these paragraphs, as appropriate.

##### **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 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 Homeland Security (DHS).

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. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings, to minimize delays.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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 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 proposed rule would not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay.

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.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398-6222. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 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 will 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 affect 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 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 might 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.

#### 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, 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 proposed rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

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

Bridges.

#### Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117.1007 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. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Remove paragraphs §117.1007(c)(3) and (c)(4) and revise paragraphs (c)(1) and (c)(2) to read as follows:

**§ 117.1007 Elizabeth River-Eastern Branch.**

\* \* \* \* \*

(c) \* \* \*

(1) Shall open on signal at any time, except from 5 a.m. to 9 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays.

(2) From 5 a.m. to 9 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, shall open at any time for commercial vessels with a draft of 22 feet or more, provided that at least 12 hours advance notice has been given to the Berkley Bridge Traffic Control room at (757) 494-2490.

Dated: May 31, 2005.

**Sally Brice-O'Hara,**

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

[FR Doc. 05-11397 Filed 6-7-05; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[R03-OAR-2004-WV-0003; FRL-7922-2]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the New Manchester-Grant Magisterial District SO<sub>2</sub> Nonattainment Area and Approval of the Maintenance Plan**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a request from the State of West Virginia to redesignate the New Manchester-Grant Magisterial District in Hancock County from nonattainment to attainment of the national ambient air quality standards (NAAQS) for sulfur dioxide (SO<sub>2</sub>). EPA is also proposing to approve a maintenance plan for the area as a SIP revision which would put in place a plan for maintaining the NAAQS for SO<sub>2</sub> for the next ten years. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are

received in response to this action, 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 proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by July 8, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EdoCKET (RME) ID Number R03-OAR-2004-WV-0003 by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *Agency Web site:* <http://www.docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. *E-mail:* [campbell.dave@epa.gov](mailto:campbell.dave@epa.gov).

D. *Mail:* R03-OAR-2004-WV-0003, David Campbell, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to RME ID No. R03-OAR-2004-WV-0003. EPA's policy is that all comments received will be included in the public docket without change, and may be available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the [Federal Register](http://www.federalregister.gov) Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the

public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE., Charleston, WV 25304-2943.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, approving the redesignation request and maintenance plan for the New Manchester-Grant Magisterial District, Hancock County, West Virginia SO<sub>2</sub> nonattainment area, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 31, 2005.

**Thomas Voltaggio,**

*Acting Regional Administrator, Region III.*  
[FR Doc. 05-11382 Filed 6-7-05; 8:45 am]

**BILLING CODE 6560-50-P**