

## 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.

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

## Environment

We have analyzed this final 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 environmental documentation. It has been determined that this final rule does not significantly impact the environment.

## 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; 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. Amend § 117.799 by revising paragraph (h) to read as follows:

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

\* \* \* \* \*

(h) The draw of the Meadowbrook State Parkway Bridge, mile 12.8, across Sloop Channel, shall open on signal if at least a one-half hour notice is given to the New York State Department of Transportation, as follows:

(1) Every other hour on the even hour.

(2) From April 1 through October 31, on Saturdays, Sundays, and Federal holidays, every three hours beginning at 1:30 a.m. Notice may be given from the telephone located at the moorings on each side of the bridge or by marine radio.

(3) From 9 p.m. to midnight, on the Fourth of July, the Meadowbrook State Parkway Bridge need not open for the passage of vessel traffic.

\* \* \* \* \*

Dated: June 10, 2004.

**John L. Grenier,**

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

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

[CGD 11–04–005]

## Drawbridge Operation Regulations; Turner Cut, Stockton, CA

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Zuckerman Brothers Drawbridge, mile 2.3, Turner Cut, near Stockton, CA. This deviation allows the drawbridge to remain in the closed-to-navigation position during essential operating machinery repair, to prevent unexpected failure of the drawspan.

**DATES:** This deviation is effective from 7 a.m. on June 23, 2004 to 5 p.m. on June 24, 2004.

**ADDRESSES:** Documents referred to in this temporary rule are available for inspection and copying at Commander (oan), Eleventh Coast Guard District, Building 50–3, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

**SUPPLEMENTARY INFORMATION:** The Delta Farms Reclamation District 2030 has requested to secure the Zuckerman Brothers Drawbridge, mile 2.3, Turner Cut, near Stockton, CA, in the closed-to-navigation position from 7 a.m. on June 23, 2004 to 5 p.m. on June 24, 2004, during essential operating machinery repair, to prevent unexpected failure of the drawspan. The drawbridge provides unlimited vertical clearance in the full open-to-navigation position, and 16 ft. vertical clearance above Mean High Water when closed. The drawbridge opens on signal from approaching vessels, as required by 33 CFR 117.5.

The proposed work was coordinated with waterway users. It was determined that potential navigational impacts will be reduced if the repairs are performed during midweek, resulting in Coast Guard approval of the proposed work from 7 a.m. on June 23, 2004 to 5 p.m. on June 24, 2004.

During these times, the drawspan may be secured in the closed-to-navigation position and need not open for vessels.

The drawspan shall resume normal operation at the conclusion of the essential repair work. Mariners should contact the Zuckerman Brothers Drawbridge, via VHF-FM Ch. 9, or by telephone at (209) 464-1253, in advance to determine conditions at the bridge.

The drawspan will be unable to open during the repair. Vessels that can safely pass through the closed drawbridge may continue to do so at any time. An alternative route is available for vessels that can safely navigate around McDonald Island, via Columbia Cut. In accordance with 33 CFR 117.35(c), this work will be performed with all due speed to return the drawbridge to normal operation as soon as possible.

This deviation from the operating regulations is approved under the provisions of 33 CFR 117.35.

Dated: June 9, 2004.

**Kevin J. Eldridge,**

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

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## 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:** Final rule.

**SUMMARY:** The Coast Guard has changed the drawbridge operation regulations that govern 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 final rule allows the bridge owner to keep the above bridges closed for various extended 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:** This rule is effective July 22, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-04-019) and are available for inspection or copying at

the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Bridge Administrator, First Coast Guard District, (212)668-7165.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On April 6, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Harlem River, Newtown Creek, New York, in the **Federal Register** (69 FR 18004). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

##### 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 final rule makes the traditional closures part of the permanent drawbridge operation regulations. New York City Department of Transportation will provide the exact dates and times for each bridge several weeks in advance of the race. Those dates and times will 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 Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, no changes have been made to this final rule.

##### 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 Homeland Security (DHS).

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 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 bridge closures are of short duration on a Sunday in May and