

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

[CGD01-00-223]

RIN 2115-AE47

**Drawbridge Operation Regulations:  
Harlem River, Newtown Creek, NY****AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary final rule governing the operation of the Willis Avenue Bridge, mile 1.5, and the Madison Avenue Bridge, mile 2.3, both across the Harlem River, and the Pulaski Bridge, mile 0.6, across Newtown Creek in New York City, New York. This temporary final rule allows the bridge owner to close the above three bridges on November 5, 2000, for public safety and to facilitate a public function, the running of the New York City Marathon.

**DATES:** This temporary final rule is effective on November 5, 2000.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364.

**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Supervisory Bridge Management Specialist, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. Information about the New York City Marathon was not provided to the Coast Guard until September 20, 2000, making it impossible to draft or publish a NPRM.

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**. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to close the bridge in order to provide for public safety and the safety of marathon participants. This closure is not expected to have a significant impact on navigation because vessel traffic on the Harlem River and

Newtown Creek is mostly commercial vessels that normally pass under the draws without openings. The commercial vessels that do require openings are work barges that do not operate on Sundays.

**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, mile 2.3, across the Harlem River has a vertical clearance of 25 feet at MHW and 29 feet at MLW 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 Willis Avenue and Madison Avenue bridges, listed at 33 CFR 117.789(c), require the bridges to open on signal from 10 a.m. to 5 p.m., if at least four-hours notice is given. 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 bridge owner, New York City Department of Transportation (NYCDOT), requested a temporary change to the operating regulations governing the Willis Avenue Bridge, the Madison Avenue Bridge, and the Pulaski Bridge, to allow the bridges to remain in the closed position as follows: Willis Avenue and Madison Avenue bridges from 10 a.m. to 5 p.m.; Pulaski Bridge from 10:30 a.m. to 3 p.m. This action is necessary on November 5, 2000, to facilitate the running of the New York City Marathon. Vessels that can pass under the bridges without bridge openings may do so at all times during these bridge closures.

**Regulatory Evaluation**

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget 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). The Coast Guard expects the economic impact of this temporary final 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 requested

closures are of short duration and on Sunday when there have been few requests to open these bridges.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) we considered whether this temporary final rule would have a significant economic impact on a substantial number of small entities. "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 and on Sunday when there have been few requests to open these bridges.

**Collection of Information**

This temporary final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this temporary final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this temporary final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard considered the environmental impact of this temporary final rule and concluded that, under Section 2.B.2., Figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1C, this temporary final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this temporary final rule.

**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 5, 2000, from 10 a.m. to 5 p.m., in § 117.789, paragraph(c) is temporarily suspended and a new paragraph(g) is temporarily added to read as follows:

**§ 117.789 Harlem River**

\* \* \* \* \*

(g) 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 from 10 a.m. to 5 p.m.

3. On November 5, 2000, from 10 a.m. to 5 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, from 10 a.m. to 5 p.m. 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 18, 2000.

**G.N. Naccara,**

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

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 69

[CC Docket No. 99-316; FCC 00-384]

### Shortening Notice Period for Changes in Participation in NECA's Access Tariffs

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Commission's rules to change the date by which carriers must notify the

National Exchange Carrier Association, Inc. (NECA) of any changes in their participation in the association's access tariff filing. Previously, incumbent local exchange carriers were required to notify NECA of any change in their participation in the association's access tariff by December 31 of the year preceding the tariff filing. The Commission is amending its rules to extend that notification deadline to March 1 of the tariff year. This change will provide carriers with additional time in which to make their access tariff participation decisions.

**DATES:** Effective November 30, 2000.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jennifer McKee, (202) 418-1520.

**SUPPLEMENTARY INFORMATION:** Under 47 CFR 69.3, NECA is responsible for filing an access service tariff as agent for all telephone companies that participate in the association tariff. The association tariff is to be filed with a scheduled effective date of July 1. To provide NECA with sufficient notice, carriers were required to notify NECA of any change in their association tariff participation by December 31 of the year preceding the filing of the tariff.

In 1997 the Commission streamlined its tariff filing rules, allowing carriers to file their annual access tariffs on 15 days notice for filings that include rate increases, or on 7 days notice for filings that include only rate decreases, rather than on 90 days notice. 63 FR 13132, March 18, 1998. The streamlined notice requirement applies to NECA's association access service tariff, allowing NECA to file the tariff on June 16 or June 24, rather than on April 2, for an effective date of July 1. In addition to the streamlined notice period, NECA now employs electronic data collection and processing routines that were not in use when 47 CFR 69.3 was adopted. These more efficient data collection techniques significantly reduce the time required to assemble and analyze data for NECA's tariff filing. According to NECA, the tariff streamlining rules and improvements in data collection management eliminate the need for carriers to provide six months advance notice to NECA of planned tariff participation changes. Therefore, NECA filed a petition for rulemaking seeking to change the carrier notification date from December 31 of the previous year to March 1 of the tariff year. We granted NECA's petition and sought comment on the proposal. 65 FR 51572, August 24, 2000.

We agree with NECA that changes in tariff notification periods and advancements in data collection and processing methods warrant a shorter timeframe for carriers to provide notice of tariff participation changes. In addition, as NECA noted in its petition, shorter notice periods will not disadvantage NECA and may help smaller companies make better-informed decisions regarding tariff participation. For instance, because the deadline by which NECA must file proposed revisions to its average schedule formulas is December 31, companies that rely on these formulas to compute interstate access compensation will have more time to analyze the proposed revisions before deciding whether to participate in NECA's access tariff.

Therefore, we amend 47 CFR part 69 to allow carriers until March 1 of each tariff year to notify NECA of any changes in tariff participation.

### Paperwork Reduction Act Analysis

The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found not to impose new or modified reporting and recordkeeping requirements or burdens on the public. Therefore implementation of the amended rule extending the date by which carriers must notify NECA of changes in their association access tariff participation will not be subject to approval by the Office of Management and Budget (OMB).

### Final Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. The RFA, 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended. See 5 U.S.C. 604.

*Need for and Objectives of This Order.* As discussed above, NECA has asserted that changes in tariff notification periods and advancements in data collection and processing methods have facilitated NECA's ability to prepare association tariffs. Therefore, NECA can receive notifications from carriers changing the status of their