

Dated: July 27, 2001.

**Todd A. Stevenson,**

*Acting Secretary, Consumer Product Safety Commission.*

#### List of Relevant Documents

1. Briefing memorandum from Suzanne Barone, Ph.D., EH, to the Commission, "Final Rule to Require Special Packaging for Oral Prescription Drugs that are Granted Over-the-Counter Status by the Food and Drug Administration," July 2, 2001.

2. Letter from Debra L. Bowen, M.D., Acting Director, Division of Over-the-Counter Drug Products, Food and Drug Administration, to Jeffrey S. Bromme, Esq., General Counsel, Consumer Product Safety Commission, October 7, 1998.

3. Memorandum from Robert L. Franklin, EC, to Suzanne Barone, Ph.D., EH, "Economic Considerations Related to the Rule to Maintain Child-Resistant Packaging Requirements for Oral Prescription Drugs that Have Been Granted OTC Status by the FDA," May 31, 2001.

4. Memorandum from Suzanne Barone, Ph.D., Project manager for Poison prevention, Directorate for Health Sciences, to Sadye E. Dunn, Secretary, Consumer Product Safety Commission, "Responses to Questions from Commissioner Moore on Over-the-Counter Switches," June 23, 2000.

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD01-01-108]

RIN 2115-AE47

#### Drawbridge Operation Regulations: Jamaica Bay and Connecting Waterways, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary final rule governing the operation of the Belt Parkway Bridge, at mile 0.8, across Mill Basin at Brooklyn, New York. This rule allows the bridge owner to require a one-hour advance notice for bridge openings from 10 p.m. through 5 a.m., Sunday through Thursday, from July 29, 2001 through December 31, 2001. This action is necessary to facilitate structural maintenance at the bridge.

**DATES:** This temporary final rule is effective from July 29, 2001 through December 31, 2001.

**ADDRESSES:** Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-

01-108) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 6:30 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. 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) for not publishing a NPRM with comment and for making this regulation effective in less than 30 days after publication in the **Federal Register**. The Coast Guard believes notice and comment are unnecessary because our review of the bridge logs for the past two years shows that there have been no bridge openings requested at night during the time period this rule will be in effect. Making this rule effective less than thirty days after publication is necessary because the bridge owner advised the Coast Guard that emergency structural maintenance must be performed to insure safe operation of the bridge. In view of the historic absence of night time bridge opening requests and the demonstrated need to perform structural maintenance, any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest.

##### Background

The Belt Parkway Bridge, at mile 0.8, across the Mill Basin, 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 (NYCDOT), requested a temporary regulation to facilitate structural maintenance to replace the deteriorated roadway deck at the bridge.

##### Regulatory Evaluation

This 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. 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; February 26, 1979). This conclusion is based on the fact that there have been no requests to open the

bridge during the time period the bridge owner has requested an advance notice requirement.

##### 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. "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 there have been no requests to open the bridge during the time period the bridge owner has requested an advance notice requirement.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

##### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

##### Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

##### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal

government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### Taking of Private Property

This rule will not effect 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 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 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.

#### Environment

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

#### 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.

#### 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. From July 29, 2001 through December 31, 2001, § 117.795 is temporarily amended by suspending paragraph (b) and adding a new paragraph (d) to read as follows:

#### § 117.795 Jamaica Bay and connecting waterways.

\* \* \* \* \*

(d)(1) The draws of the New York City highway bridge, mile 0.8, across Mill Basin on Belt Parkway, need not be opened for the passage of vessels from noon to 9 p.m. on Sundays from July 29, 2001 to December 31, 2001 and on Labor Day. However, on these days, from two hours before to one hour after predicted high tide, the draw shall open on signal. For the purposes of this section, predicted high tide occurs 15 minutes later than that predicted for Sandy Hook, as given in the tide tables published by the National Oceanic and Atmospheric Administration.

(2) From 10 p.m. to 5 a.m., Sunday through Thursday, from July 29, 2001 through December 31, 2001, the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

(3) At all times, public vessels of the United States and state or local vessels used for public safety shall be passed as soon as possible.

Dated: July 20, 2001.

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-01-019]

#### Drawbridge Operating Regulation; Ouachita River, LA

**AGENCY:** Coast Guard, DOT.

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

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117.5 governing the operation of the Kansas City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, at Monroe, Ouachita Parish, Louisiana. This deviation allows the bridge owner to close the bridge to navigation from noon on Sunday, August 19, 2001 until noon on Tuesday, August 21, 2001. Presently, the draw is required to open on signal for the passage of vessels. This temporary deviation was issued to allow for repairs to the turn span of the bridge.

**DATES:** This deviation is effective from noon on August 19, 2001 until noon on August 21, 2001.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130-3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The Kansas City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, at Monroe, Ouachita Parish, Louisiana has a vertical clearance of 2 feet above high water in the closed-to-navigation position and 52 feet above high water in the open-to-navigation position. Navigation on the waterway consists primarily of tugs with tows. Modjeski and Masters, consulting engineers for the Kansas City Southern Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the jacking of the swing span at the center and ends (bridge in the closed position) sufficient to raise the center circular turning track several inches to improve the opening and closing of the swing span. This maintenance is