

advance notice between the hours of 8 p.m. and 8 a.m. from November through April

On January 27, 1995, the Coast Guard published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; New Rochelle Harbor, NY" in the Federal Register (60 FR 5343), proposing a change in the operating regulations by permitting the bridge to remain closed from 1 May through 31 October between 12 midnight and 8 a.m. and from 1 November through 30 April between 8 p.m. and 8 a.m. The Commander, First Coast Guard District also circulated this proposal for comment via Public Notice 1-846 dated April 18, 1995. The Coast Guard received ninety-eight comments expressing opposition to the proposal. The major objection was the fact that vessels requiring passage during the nighttime closed periods would be forced to use the alternate, New Rochelle Harbor South (back) Channel, which is considered dangerous for nighttime passage due to the shallowness and narrowness of the channel and the lack of lighted aids to navigation. No public hearing was requested and none was held. Based on the concerns expressed by the marine public, the Westchester County Department of Parks revised its request to modify the drawbridge operating regulations.

These proposed regulations will provide the bridge owner relief from having an operator in constant attendance at the bridge during periods of limited opening demand, while accommodating the navigational needs of the marine community.

Discussion of Proposed Amendments

The Coast Guard proposes to amend 33 CFR 117 by adding section 117.802 to require two hours advance notice for bridge openings between the hours of 12 midnight and 6 a.m. from May through October and twenty-four hours advance notice between the hours of 8 p.m. and 8 a.m. from November through April.

The Coast Guard also proposes that bridge owners install and maintain clearance gauges with figures not less than twelve inches high on the upstream and downstream sides of the bridge.

Regulatory Evaluation

This proposal 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; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed regulations will not prevent mariners from passing through the Glen Island Bridge but just require giving two hours advance notice of arrival between 12 midnight and 6 a.m. from May through October and twenty-four hours between 8 p.m. and 8 a.m. from November through April. This notice requirement will have minimal economic impact considering the low frequency of openings for navigation and the inactivity of the local marinas, yacht clubs and boat yards located up and downstream of the bridge during the regulated periods. There will be no impact on vehicular traffic that uses this bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard finds that the rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This proposed rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposed regulation does not have sufficient federalism implications to

warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.e(32)(e) of commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation since it is a proposed promulgation of a drawbridge operating regulation.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR 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. 449; 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. Section 117.802 is added to read as follows:

§ 117.802 New Rochelle Harbor.

(a) The draw of the Glen Island Bridge, mile 0.8, at new Rochelle, New York, shall open on signal, except as follows:

(1) two hours advance notice shall be given for openings from 12 midnight to 6 a.m. from May 1st through October 31st.

(2) twenty-four hours advance notice shall be given for openings from 8 p.m. to 8 a.m. from November 1st through April 30th.

(b) The owner of the bridge shall provide and keep in good legible condition clearance gauges with figures not less than 12 inches high designed, installed, and maintained according to the provisions of section 118.180.

Dated: April 30, 1996.

J.L. Linnon,

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

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LIBRARY OF CONGRESS**Copyright Office****37 CFR Chapter II****[Docket No. RM 96-3]****Notice and Recordkeeping for Subscription Digital Transmissions****AGENCY:** Copyright Office, Library of Congress.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is requesting comments on the requirements by which copyright owners shall receive reasonable notice of the use of their works from subscription digital transmission services, and how records of such use shall be kept and made available to copyright owners. The regulations are required to be adopted by the Digital Performance Right in Sound Recordings Act of 1995, and are intended to ensure proper payment to copyright owners.

DATES: Comments are due July 12, 1996. Reply comments are due August 12, 1996.

ADDRESSES: An original and fifteen copies of the comments shall be delivered to: Office of General Counsel, The Copyright Office, LM-407, The Madison Building, 101 Independence Avenue SE., Washington, D.C., or mailed to: Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or William J. Roberts, Senior Attorney, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION:**Background**

On November 1, 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995. Pub. L. 104-39, 109 Stat. 337 (1995). Among other things, it created a new compulsory copyright license that is paid by nonexempt subscription digital transmission services to the copyright owners of sound recordings. 17 U.S.C. 114(f). Congress directed the Librarian of Congress to establish regulations by which the entities availing themselves of this new license would keep records of their use, make the records available to the copyright owners, and give notice to the copyright owners of the use of their works.

The Sec. 114 License for Nonexempt Subscription Digital Transmissions Services

The Digital Performance Right in Sound Recordings Act gave to copyright owners of sound recordings an exclusive right to perform their works by means of a digital audio transmission. Certain digital transmissions were exempted from the scope of this right, 17 U.S.C. 114(d)(1), while certain subscription digital transmission services were given the opportunity to qualify for a compulsory license. 17 U.S.C. 114(d)(2).

A nonexempt subscription digital transmission qualifies for a compulsory license if the transmission is not part of an interactive service, does not exceed the sound recording performance complement, does not give an advance program schedule or prior announcements of the titles to be performed, does not automatically cause the receiving device to switch automatically from one program channel to another, and includes, if the copyright owner wants it, encoded information that identifies the title, the featured artist, and related information. 17 U.S.C. 114(d)(2).

If a service offering subscription digital transmissions qualifies for the compulsory license, it has the choice of reaching a voluntary agreement with the owners of the sound recordings it wishes to use, or, failing that, it may petition the Librarian of Congress to convene a copyright arbitration royalty panel (CARP) to set the rates and terms of the compulsory license. 17 U.S.C. 114(f). The terms and rates set by a CARP will be applicable to all subscription digital transmission services not subject to a voluntary agreement. However, the above mentioned requirements for notice and recordkeeping are to be set by the Librarian, not the CARP. 17 U.S.C. 114(f)(2).

On December 1, 1995, the Copyright Office and the Library of Congress initiated the six month period for negotiating the rates and terms for a compulsory license for subscription digital transmission services. 60 FR 61655 (Dec. 1, 1995). The period will run until June 1, 1996, after which the parties have 60 days to petition the Librarian to convene a CARP to set the rates and terms for those entities who have not reached voluntary agreements.

In the meantime, any person who wishes to perform a sound recording publicly by means of a nonexempt subscription transmission may do so without infringing the rights of the copyright owner of the sound recording

by complying with the notice requirements set by the Librarian of Congress and agreeing to pay the royalty fees as they are determined. 17 U.S.C. 114(f)(5).

This notice requirement, however, is an affirmative duty placed on the digital transmission subscription services to provide reasonable notice to the copyright owners of the use of their sound recordings. 17 U.S.C. 114(f)(2). Therefore, it is important for the Copyright Office and the Library of Congress to begin this rulemaking to establish the notice and recordkeeping requirements so that persons wishing to abide by section 114(f)(5) may do so.

Although we do not propose any specific regulatory language, commentators should consider both the adequacy of the notice to the copyright owners of the sound recordings and the administrative burdens placed on the digital transmission services in providing notice and maintaining records of use.

Dated: May 3, 1996.

Recommended by:
Marybeth Peters,
Register of Copyrights.

Approved by:
James H. Billington,
The Librarian of Congress.
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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 300****[FRL-5504-2]****National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List****AGENCY:** Environmental Protection Agency.

ACTION: Notice of intent to delete the Alaskan Battery Enterprises Site from the National Priorities List Update: Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Alaskan Battery Enterprises Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability