

are inconsistent with end-of-life operations.

Dated: October 19, 1998.

**John V. Mirabella,**

*Acting Chief, Engineering and Operations Division.*

[FR Doc. 98-28677 Filed 10-26-98; 8:45 am]

BILLING CODE 4310-MR-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-98-061]

RIN 2115-AE47

#### **Drawbridge Operating Regulation; Gulf Intracoastal Waterway, Algiers Alternate Route, Louisianas**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary rule.

**SUMMARY:** The commander, Eighth Coast Guard District is temporarily changing the regulation governing the operation of the State Route 23 vertical lift span drawbridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Louisiana. This temporary rule is issued to facilitate movement of vehicular traffic for the New Orleans Open House 1998 Air Show, to be held at the U.S. Naval Air Station, Joint Reserve Base at Belle Chasse, Louisiana.

**DATES:** This temporary rule is effective from 4 p.m. on October 31, 1998 until 7 p.m. on November 1, 1998.

**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, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. Phil Johnson, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130-3396, telephone number 504-589-2965.

#### **SUPPLEMENTARY INFORMATION:**

#### **Discussion of Temporary Rule**

The State Route 23 vertical lift span drawbridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Louisiana has

a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 100 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists primarily of tugs with tows, commercial fishing vessels, and occasional recreational craft.

The Louisiana Department of Transportation and Development has requested a temporary rule changing the operation of the State Route 23 vertical lift span drawbridge. The rule is needed to accommodate the additional volume of vehicular traffic that the New Orleans Open House Air Show is expected to generate. Between 150,000 and 200,000 members of the public are expected to attend the New Orleans Open House Air Show on each day. The temporary rule will allow for the expeditious dispersal of the heavy volume of vehicular traffic expected to depart the U.S. Naval Air Station, Joint Reserve Base following the event.

The Coast Guard was not notified in time to issue a notice of temporary rulemaking. For this reason, good cause exists to make this temporary rule effective in less than 30 days after publication.

#### **Regulatory Evaluation**

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost 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 temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because the number of vessels impaired during the closed-to-navigation periods is minimal. All commercial vessels still have ample opportunity to transit this waterway before and after the two-hour and 45-minute closure on October 31 and the three-hour closure on November 1, 1998. Additionally, a practical alternate route of approximately seven additional miles is available via the Harvey Canal and the Mississippi River.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this temporary rule will have a significant economic impact on a substantial number of small

entities. "Small entities" may include 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 temporary rule considers the needs of local commercial fishing vessels, as the study of vessels passing the bridge included such commercial vessels. These local commercial fishing vessels will only be inconvenienced for two hours and 45 minutes on a Saturday and three hours on a Sunday on a one-time basis. Also, there is a practical alternate route of approximately seven additional miles via the Harvey Canal and Mississippi River. Thus, the economic impact is expected to be minimal. There is no indication that other waterway users would suffer any type of economic hardship if they are precluded from transiting the waterway during the hours that the draw is scheduled to remain in the closed-to-navigation position. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

#### **Collection of Information**

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

#### **Federalism**

The Coast Guard has analyzed this temporary rule under the principles and criteria contained in Executive Order 12612 and has determined that this temporary rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. The authority to regulate the permits of bridges over the navigable waters of the U.S. belongs to the Coast Guard by Federal statutes.

#### **Environment**

The Coast Guard considered the environmental impact of this temporary rule and concluded that under Figure 2-1, paragraph 32(e) of Commandant Instruction M16475.1C, this temporary rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

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

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending

Part 117 of Title 33, Code of Federal Regulations, 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. Effective from 4 p.m. on October 31, 1998 through 7 p.m. on November 1, 1998 § 117.451 is amended by suspending paragraph (b) and adding a new paragraph (f).

**§ 117.451 Gulf Intracoastal Waterway.**

\* \* \* \* \*

(f) The draw of SR 23 bridge, Algiers Alternate Route, mile 3.8 at Belle Chasse, shall open on signal; except that from 4 p.m. until 6:45 p.m. on Saturday, October 31, 1998 and from 4 p.m. until 7 p.m. on Sunday, November 1, 1998, the draw need not open for the passage of vessels.

Dated: October 14, 1998.

**Paul J. Pluta,**

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

[FR Doc. 98-28754 Filed 10-26-98; 8:45 am]

BILLING CODE 4910-15-M

**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 763**

[OPPTS-62155A; FRL-6038-1]

**Asbestos-Containing Materials in  
Schools; Final Decision on State  
Request for Waiver From  
Requirements**

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

**ACTION:** Notice of final decision on requested waiver.

**SUMMARY:** EPA is issuing a final decision which approves the request of the Commonwealth of Massachusetts for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools, based on a formal assurance to EPA that Massachusetts has an asbestos accreditation program at least as stringent as the EPA's Asbestos Model Accreditation Plan.

**EFFECTIVE DATE:** August 24, 1998.

**ADDRESSES:** A copy of the complete waiver application submitted by the State, identified by the docket control number OPPTS-62155, is available from the Environmental Protection Agency,

TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460, from 12 noon to 4 p.m., Monday through Friday, except legal holidays. A copy is also on file and may be reviewed at the Environmental Protection Agency, Region I Office, John F. Kennedy Federal Building, Boston, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:**

James M. Bryson at 617-565-3836 or e-mail: bryson.jamesm@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This document is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act 1986 (AHERA), Pub. L. 99-519. AHERA is the abbreviation commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools and will be used in this document. EPA issued a final rule in the **Federal Register** of October 30, 1987 (52 FR 41846), the Asbestos-Containing Materials in Schools Rule (the Schools Rule, 40 CFR part 763, subpart E), which requires all Local Education Agencies (LEAs) to identify asbestos-containing building materials (ACBMs) in their school buildings and to take appropriate actions to control the release of asbestos fibers.

Under section 203 of AHERA, EPA may, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, waive in whole or part the requirements of the Schools Rule, if the State has established and is implementing or intends to implement an ongoing program of asbestos inspection and management which is at least as stringent as the requirements of the rule. Section 763.98 (40 CFR 763.98) sets forth the procedures to implement this statutory provision. The Schools Rule requires that specific information be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and rescission of waivers granted to States. The Agency encourages States to establish and manage their own school regulatory programs under the AHERA waiver provision. EPA issued a notice in the **Federal Register** of June 24, 1998 (63 FR 34348; FRL-5762-3), which announced the receipt of a waiver request from the Commonwealth of Massachusetts, and solicited comments from the public. The notice also discussed the program elements of the

State program, and provided EPA's preliminary evaluation of the State resources responsible for effective implementation and administration of the asbestos program in Massachusetts. No comments were received during the 60-day comment period. No request for a public hearing was received. Consequently, no hearing was held.

EPA is required to issue a notice in the **Federal Register** announcing its decision to grant or deny a request for waiver within 30 days after the close of the comment period. The comment period for this docket closed on August 24, 1998. The 60-day review period may be extended if mutually agreed upon by EPA and the State.

The remainder of this document is divided into Units II., III, and IV. Unit II. discusses the Commonwealth of Massachusetts program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. Unit II. is divided into sections A. and B. Section A. discusses key elements of the State's program at the time the waiver request was submitted. Section B. gives EPA's final approval of the waiver request based on the State's response. Units III. and IV. of this notice discuss the regulatory assessment requirements.

**II. The Commonwealth of  
Massachusetts Program**

*A. Program Elements*

The Massachusetts Department of Labor and Workforce Development (MDLWD) has the authority to regulate asbestos in schools and state buildings. The Massachusetts General Laws Chapter 149, sections 6, 6A-6G and the MDLWD Regulation No. 453 CMR 6.00 are the State provisions for asbestos inspections and management in school and public and commercial buildings.

The MDLWD conducts inspections to ensure compliance with the above laws and rules. MDLWD reviews the management plans submitted for schools. The requirements of the Massachusetts Program are the same as or more stringent than the Federal AHERA requirements. The State requirements are more stringent in that the requirements apply to public and commercial buildings in addition to schools.

*B. EPA's Decision on the  
Commonwealth of Massachusetts  
Request for Waiver*

Based on a formal assurance to EPA from the lead Massachusetts agency (MDLWD) having the legal authority to carry out the requirements relating to the waiver request that Massachusetts