airspace at Riverside/Rubidoux Flabob Airport, Riverside, CA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Riverside/Rubidoux Flabob Airport, CA [New]

Flabob Airport, CA
(Lat. 33°59′20″ N., long. 117°24′36″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Flabob Airport.

* * * * *

Issued in Seattle, Washington, on December 10, 2009.

H. Steve Karnes,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. E9–30319 Filed 1–4–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0456]

RIN 1625–AA09

Drawbridge Operation Regulations; Harlem River, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations that govern the operation of the bridges across the Harlem River at New York City, New York. This final rule revises the drawbridge operation regulations by expanding the bridge opening periods and also removes redundant language and requirements that are no longer necessary.

DATES: This rule is effective February 4, 2010.

ADDRESSES: Comments and related material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket (USCG–2008–0456) and are available online at *http://www.regulations.gov*, inserting USCG–2008–0456 in the ''Keyword'' box, then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone 212–668–7165. If you have questions on viewing the docket call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 7, 2008, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulations''; Harlem River, New York, in the **Federal Register** (73 FR 45922). We received two letters commenting on the proposed rule. No public meeting was requested, and none was held.

On November 10, 2008, we published a supplemental notice of proposed rulemaking (SNPRM) entitled ''Drawbridge Operation Regulations'', Harlem River, New York, in the **Federal Register** (73 FR 66571). We received one comment letter in response to our (SNPRM). No public meeting was requested, and none was held.

Background and Purpose

The drawbridge operation regulations for the Harlem River are listed at 33 CFR 117.789, and require all the moveable bridges across the Harlem River, except the Spuyten Duyvil Bridge, to open on signal from 10 a.m. to 5 p.m. after a four-hour notice is given. From 5 p.m. through 10 a.m., all the bridges, except the Spuyten Duyvil Bridge, are not required to open for vessel traffic.

The eleven moveable bridges across the Harlem River provide the following vertical clearances in the closed position:

The 103rd Street Bridge has a vertical clearance of 55 feet at mean high water, and 60 feet at mean low water in the closed position.

The 125th Street Bridge has a vertical clearance of 54 feet at mean high water and 59 feet at mean low water in the closed position.

The Willis Avenue Bridge has a vertical clearance of 24 feet at mean high water and 30 feet at mean low water in the closed position.

The Third Avenue Bridge has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position.

The Metro North Park Avenue Bridge has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position.

The Madison Avenue Bridge has a vertical clearance of 25 feet at mean high water and 29 feet at mean low water in the closed position.

The 145th Street Bridge has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position.

The Macombs Dam Bridge has a vertical clearance of 27 feet at mean high water and 32 feet at mean low water in the closed position.

The 207th Street Bridge has a vertical clearance of 26 feet at mean high water and 30 feet at mean low water in the closed position.

The Broadway Bridge has a vertical clearance of 24 feet at mean high water and 29 feet at mean low water in the closed position.

The Spuyten Duyvil Bridge has a vertical clearance of 5 feet at mean high water and 9 feet at mean low water in the closed position.

The bridges across the Harlem River, except the Spuyten Duyvil Bridge, have a minimum of 24 feet at mean high water. The Spuyten Duyvil Bridge is much lower in vertical clearance, and as a result, is required under the existing regulations to open on signal at all times for the passage of vessel traffic.

Most vessel operators that normally frequent the Harlem River utilize vessels that fit under the existing bridges in the closed position and do not require bridge openings.

Coast Guard policy is that all bridges over navigable waterways should open for vessel traffic at any time, either on signal, or after some reasonable advance notice is given.

As a result the Coast Guard is changing the drawbridge operation

regulations for the Harlem River to require all the bridges that formerly did not open for the passage of vessel traffic from 5 p.m. to 10 a.m. to open after at least a four-hour advance notice is given at all times, except during the morning and evening commuter rush hours.

The Coast Guard is adding a requirement that all bridges, except the Spuyten Duyvil Bridge, need not open for the passage of vessel traffic during the morning and afternoon commuter rush hours, Monday through Friday, except federal holidays, to help reduce both vehicular traffic delays and delays to commuter trains during the work week. The Spuyten Duyvil Bridge was not included in the closed periods for the morning and afternoon rush hours because it is so low in vertical clearance. The vessel traffic that can fit under the other bridges without a bridge opening can not transit under the Spuyten Duyvil Bridge without a bridge opening.

The Coast Guard is also adding a requirement that the maximum time the railroad bridges across the Harlem River may delay bridge openings for the passage of rail traffic be clearly defined as ten minutes in order to avoid lengthy delays that could hazard a vessel waiting for a bridge opening.

The Coast Guard is removing obsolete language in the existing regulation that allows public vessels of the United States to be passed through each bridge as soon as possible because that provision is now required under 33 CFR 117.31, as part of the General Requirements for bridges.

Discussion of Comments and Changes

The Coast Guard received two comment letters in response to our notice of proposed rulemaking (73 FR 45922) published on August 7, 2008. The New York City Department of Transportation (NYCDOT), the owner of eight of the eleven bridges, objected to the proposal in our notice of proposed rulemaking that would require their bridges to open from 5 p.m. to 10 a.m. after a four-hour advance notice was given. NYCDOT stated that opening their bridges between 5 p.m. and 10 a.m. would cause an undue hardship to the city, resulting in traffic delays, and maintenance issues.

The Coast Guard received a second letter in response to our notice of proposed rulemaking from Metro North Railroad (Metro North), an agency of the State of New York Metropolitan Transportation Authority, which stated that opening their bridge between 5 p.m. and 10 a.m. could cause major delays to their rail operations as a result of bridge openings occurring during peak commuter hours, and that it would also be a financial hardship to open their bridges from 5 p.m. to 10 a.m. due to the need to station additional work crews to address potential mechanical problems dictated by the condition of the bridge lift mechanism at their bridge.

The Coast Guard policy regarding the promulgation of drawbridge operation regulations requires that no regulation shall be implemented for the sole purpose of saving the bridge owner the cost to operate a bridge, nor to save wear and tear mechanically on a bridge. It is the bridge owner's statutory and regulatory responsibility to provide the necessary draw tenders for the safe and prompt opening of a bridge and to maintain drawbridges in good operating condition. In that regard the additional expense to safely operate drawbridges either for the passage of normal vessel traffic or in case there may be a mechanical failure at the bridge is not a valid reason to not allow the bridges on the Harlem River to open for the passage of vessel traffic between 5 p.m. and 10 a.m. daily.

In order to help provide additional relief and reduce delays to motorists and rail commuters the Coast Guard revised the supplemental notice of proposed rulemaking (73 FR 66571) published on November 10, 2008, by providing peak commuter hour bridge closure periods.

The Coast Guard received one comment letter in response to our supplementary notice of proposed rulemaking from Metropolitan Transportation Authority for the State of New York (NYS MTA). Their comment letter stated that the morning and evening rush hour closures the Coast Guard added to the supplemental notice of proposed rulemaking at the two Broadway Bridges between 6 a.m. and 9 a.m., and 5 p.m. to 7 p.m., were more restrictive than the rush hour closures from 5 a.m. to 10 a.m. and from 4 p.m. to 8 p.m. at the Park Avenue Bridge. They requested that the operating hours for the Broadway Bridge and the operating hours for the Park Avenue Bridge have the same closed periods for commuter hours to better facilitate rail traffic. If that was not operationally feasible, then Metro North requested that the restricted hours for the Broadway Bridge be 7 a.m. to 10 a.m. and 4 p.m. to 7 p.m. The Coast Guard initially based the rush hour closures at the Broadway Bridge on the vehicular traffic rush hours since both vehicular and rail traffic use the Broadway Bridges.

The Coast Guard reviewed the drawbridge opening logs for the above bridges which indicated very few requests to open each bridge. This was expected since the normal waterway users utilize vessels that can fit under the bridges without bridge openings. However, the Coast Guard determined that based on the type of navigation and industry around the Broadway Bridge, the 7 a.m. to 10 a.m. and 4 p.m. to 7 p.m. closure periods would better balance the needs of both land and marine traffic.

A second minor change was made to this final rule in the regulatory text in paragraph (b)(1) to correct the advance notice contact for the Triborough 125 Street Bridge at mile 1.3, which was incorrectly listed as the New York City Highway Radio (Hotline) Room and should be the Triborough Bridge and Tunnel Authority (TBTA).

Regulatory Analysis

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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. This conclusion is based on the drawbridge opening logs that show very few requests for openings because most regular waterway users utilize vessels that can transit under the bridges without an opening. Based on the industry along the river and the vessels used on the waterway, the Coast Guard does not anticipate any significant increase in opening requests during the evening/early morning hours that would cause an undue burden to the bridge owner because of the promulgation of this rule.

Through policy and regulation, the Coast Guard considers maintenance of a bridge an essential and unavoidable part of bridge ownership that has to be accepted for the safety of land and waterway traffic as well as the needs of navigation. Further, it is the bridge owner's responsibility to provide the necessary draw tenders for the safe and prompt opening of a bridge and to maintain drawbridges in good operating condition. It is also Coast Guard policy that no drawbridge operating regulation will be changed or implemented for the sole purpose of reducing the cost to operate or to save wear and tear on the operating mechanism of a drawbridge.

Additionally, the Coast Guard believes that the activity along the Harlem River will not increase; rather openings that may have been requested during the limited 10 a.m. to 5 p.m. time window will now have the entire 24 hour day (minus the commuter hours) to transit through the bridges and therefore, maintenance costs to the bridgeowners will be no greater.

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 none of the affected bridgeowners/commenters (NYCDOT, MetroNorth, SNY MTA) qualify as a small entity. While some vessel owners/operators might qualify as small entities, the revised schedule will provide for bridge openings on a 24-hour basis, as opposed to the existing 7-hour window, and thus will not have a significant economic impact on the vessel owner/operators.

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.

No small entities requested Coast Guard assistance and none was given.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that since the direct effect on State or local governments is small it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect 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.

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. The Administrator of the Office of Information and Regulatory Affairs has not designated it 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 rule under Department of Homeland Security Management Directive 023–01 and 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation considering that it relates to the promulgation of operating regulations or procedures for drawbridges.

Under figure 2–1, paragraph (32)(e), of the instruction, an environmental

analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed 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; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 117.789 is revised to read as follows:

§ 117.789 Harlem River.

(a) The draws of all railroad bridges across the Harlem River may remain in the closed position from the time a train scheduled to cross the bridge is within five minutes from the bridge, and until that train has fully crossed the bridge. The maximum time permitted for delay shall not exceed ten (10) minutes. Land and water traffic should pass over or through the draw as soon as possible to prevent unnecessary delays in the opening and closure of the draw.

(b)(1) The draws of the bridges at 103 Street, mile 0.0, 125 Street (Triborough), mile 1.3, Willis Avenue, mile 1.5, Third Avenue, mile 1.9, Madison Avenue, mile 2.3, 145 Street, mile 2.8, Macombs Dam, mile 3.2, 207 Street, mile 6.0, and the Broadway Bridge, mile 6.8, shall open on signal if at least a four-hour advance notice is given to the New York City Highway Radio (Hotline) Room and the Triborough Bridge and Tunnel Authority (TBTA) for the 125 Street (Triborough), mile 1.3. The draws of the above bridges, except the Broadway Bridge, need not open for the passage of vessel traffic from 6 a.m. to 9 a.m. and 5 p.m. to 7 p.m., Monday through Friday, except federal holidays. The draw of the Broadway Bridge need not open for the passage of vessel traffic from 7 a.m. to 10 a.m. and 4 p.m. to 7 p.m., Monday through Friday, except federal holidays.

(2) The draws of the Willis Avenue Bridge, mile 1.5, Third Avenue Bridge, mile 1.9, and the Madison Avenue Bridge, mile 2.3, need not open for the passage of vessel traffic at various times between 8 a.m. and 5 p.m. on the first Sunday in May and November. The exact time and date of each bridge closure will be published in the Local Notice to Mariners several weeks prior to each closure.

(c) The draw of the Metro North (Park Avenue) Bridge, mile 2.1, shall open on signal, except, as provided in paragraph (a) of this section, if at least a four-hour advance notice is given. The draw need not open for the passage of vessel traffic from 5 a.m. to 10 a.m. and 4 p.m. to 8 p.m., Monday through Friday, except Federal holidays.

(d) The draw of the Spuyten Duyvil railroad bridge, mile 7.9, shall open on signal at all times, except as provided in paragraph (a) of this section.

Dated: July 6, 2009.

Dale G. Gabel,

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

[FR Doc. E9–31228 Filed 1–4–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0751–200928; FRL–9098–9]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; North Carolina: Hickory-Morganton-Lenoir; Determination of Attaining Data for the 1997 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is determining that the Hickory-Morganton-Lenoir, North Carolina, (hereafter referred to as ''Hickory, North Carolina'') nonattainment area for the 1997 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) has attaining data for the 1997 $PM_{2.5}$ NAAQS.

DATES: *Effective Date:* This final rule is effective on January 5, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R04–OAR–2009–0751. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW,, Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Joel Huey, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Mr. Huey may be reached by phone at (404) 562–9104 or via electronic mail at *huey.joel@epa.gov.* For information relating to the North Carolina State Implementation Plan (SIP), please contact Nacosta Ward at (404) 562–9140. Ms. Ward can also be reached at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking?
II. What Is the Effect of This Action?
III. When Is This Action Effective?
IV. What Is EPA's Final Action?
V. What Are the Statutory and Executive Order Reviews?

I. What Action Is EPA Taking?

EPA is determining that the Hickory, North Carolina, nonattainment area has attaining data for the 1997 $PM_{2.5}$ NAAQS. This determination is based upon quality assured, quality controlled and certified ambient air monitoring data that show the area has monitored attainment of the 1997 $PM_{2.5}$ NAAQS based on the 2006–2008 data. In addition, quality controlled and quality assured monitoring data submitted during the calendar year 2009, which are available in the EPA Air Quality System database, but not yet certified, indicate that this area continues to meet the 1997 $PM_{2.5}$ NAAQS.

Other specific requirements of the determination and the rationale for EPA's proposed action are explained in the notice of proposed rulemaking (NPR) published on October 6, 2009 (74 FR 48863) and will not be restated here. The comment period closed on November 5, 2009. No public comments were received in response to the NPR.

II. What Is the Effect of This Action?

This final action, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit attainment demonstrations, associated reasonably available control measures, reasonable further progress plans, contingency measures, and other planning SIPs related to attainment of the 1997 $PM_{2.5}$ NAAQS as long as this