

(iii) If, on the other hand, B requests that \$40,000 (which was the value of the ABC Corp. shares on November 1) be recharacterized, the net income allocable to the \$40,000 is \$4,000 [ $\$40,000 \times (\$110,000 - \$100,000) \div \$100,000$ ]. Therefore, in order to recharacterize \$40,000 of the April 1, 2004, conversion contribution on November 1, 2004, the Roth IRA trustee must transfer from Taxpayer B's Roth IRA to a traditional IRA assets with a value of \$44,000 [ $\$40,000 + \$4,000$ ].

(iv) Regardless of the amount of the contribution recharacterized, the determination of that amount (or of the net income allocable thereto) is not affected by whether the recharacterization is accomplished by the transfer of shares of ABC Corp. or of shares of XYZ Corp.

(7) This paragraph (c) applies for purposes of determining net income attributable to IRA contributions, made on or after January 1, 2004. For purposes of determining net income attributable to IRA contributions made before January 1, 2004, see paragraph (c) of this A-2 of § 1.408A-5 (as it appeared in the April 1, 2003, edition of 26 CFR part 1).

\* \* \* \* \*

**David A. Mader,**

*Assistant Deputy Commissioner of Internal Revenue.*

Approved: April 25, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

[FR Doc. 03-11046 Filed 5-2-03; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-03-016]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Harlem River, Newtown Creek, NY.

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary final rule governing the operation of the Third Avenue Bridge, mile 1.9, across the Harlem River between Manhattan and the Bronx; the Madison Avenue Bridge, mile 2.3, across the Harlem River between Manhattan and the Bronx; and the Pulaski Bridge, mile 0.6, across Newtown Creek between Brooklyn and Queens. This temporary final rule authorizes the bridge owner to close the above bridges on May 4, 2003, at different times of short duration to

facilitate the running of the Five Borough Bike Tour. Vessels that can pass under the bridges without a bridge opening may do so at any time.

**DATES:** This rule is effective on May 4, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket (CGD01-03-016) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110-3350, between 7 a.m. and 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**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The Coast Guard believes this action is reasonable because the requested closures are of short duration on a Sunday when the bridges normally have no requests to open. The Harlem River and the Newtown Creek are navigated predominantly by commercial vessels that pass under the bridges without bridge openings. The few commercial vessels that do require openings are work barges that do not operate on Sundays. 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 the race participants.

##### **Background and Purpose**

###### *Third Avenue Bridge*

The Third Avenue Bridge, at mile 1.9, across the Harlem River between Manhattan and the Bronx, has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position. The existing operating regulations are listed at § 117.789 (c).

###### *Madison Avenue Bridge*

The Madison Avenue Bridge, at mile 2.3, across the Harlem River between Manhattan and the Bronx, has a vertical clearance of 25 feet at mean high water and 29 feet at mean low water in the closed position. The existing operating regulations listed at § 117.789(c).

###### *Pulaski Bridge*

The Pulaski Bridge, at mile 0.6, across the Newtown Creek between Brooklyn and Queens, has a vertical clearance of 39 feet at mean high water and 43 feet at mean low water in the closed position. The existing operating regulations listed at § 117.801(g).

The owner of the bridges, New York City Department of Transportation requested a change to the operating regulations for the Third Avenue Bridge, the Madison Avenue Bridge, and the Pulaski Bridge, to facilitate the running of the Five Borough Bike Tour on Sunday, May 4, 2003.

Under this temporary final rule the Third Avenue Bridge, at mile 1.9, and the Madison Avenue Bridge, at mile 2.3, may remain in the closed position from 8 a.m. to 12 p.m. on Sunday, May 4, 2003. The Pulaski Bridge, at mile 0.6, across Newtown Creek, may remain in the closed position from 9:30 a.m. to 11:30 a.m. on Sunday, May 4, 2003. Vessels that can pass under the bridges without a bridge opening may do so at all times.

##### **Regulatory Evaluation**

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion is based on the fact that the requested closures are of short duration on a Sunday morning when the bridges normally do not receive any requests to open.

##### **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 requested closures are of short duration on a Sunday morning when the

bridges normally do not receive any requests to open.

### 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 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 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 an 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. 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.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1D, 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 “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.

### 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. In § 117.789, from 8 a.m. through 12 p.m. on May 4, 2003, paragraph (c) is temporarily suspended and a new temporary paragraph (g) is added to read as follows:

#### § 117.789 Harlem River.

\* \* \* \* \*

(g) The draws of the bridges at 103 Street, mile 0.0, Willis Avenue, mile 1.5, 145 Street, mile 2.8, Macombs Dam, mile 3.2, 207 Street, mile 6.0, and the

two Broadway Bridges, mile 6.8, shall open on signal from 10 a.m. to 5 p.m. if at least four-hours notice is given to the New York City Highway Radio (Hotline) Room. The Third Avenue Bridge, mile 1.9, and the Madison Avenue Bridge, mile 2.3, need not open for vessel traffic from 8 a.m. to 12 p.m. on Sunday, May 4, 2003.

■ 3. In § 117.801, from 9:30 a.m. through 11:30 a.m. on May 4, 2003, paragraph (g) is 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 of the Greenpoint Avenue Bridge, mile 1.3, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation Radio (Hotline) Room. The Pulaski Bridge, mile 0.6, need not open for vessel traffic from 9:30 a.m. to 11:30 a.m. on May 4, 2003.

Dated: April 25, 2003.

**Vivien S. Crea,**

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

[FR Doc. 03–11035 Filed 5–2–03; 8:45 am]

BILLING CODE 4910–15–U

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Houston–Galveston–02–009]

RIN 1625–AA00 [Formerly RIN 2115–AA97]

#### Security Zones; Captain of the Port Houston-Galveston Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing security zones within the Ports of Houston, Morgan’s Point, Bayport, Texas City, and Freeport, Texas. These zones are needed to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Entry of persons and vessels into these zones is prohibited except as authorized by this rule or by the Captain of the Port Houston-Galveston.

**DATES:** This rule is effective April 15, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP Houston-Galveston–02–