

liability for a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of the Internal Revenue Code. An employee is not considered to incur liability for such a State income tax if the amount of such tax does not exceed the total amount of the credit against such tax which is allowable to him under section 6362(b)(2)(B) or (C) or section 6362(c)(4). For purposes of this section, an employee who files a joint return under section 6013 is considered to incur liability for any tax shown on such return. An employee who is entitled to file a joint return under such section shall not certify that he anticipates that he will incur no liability for income tax imposed by subtitle A for his current taxable year if such statement would not be true in the event that he files a joint return for such year, unless he filed a separate return for his preceding taxable year and anticipates that he will file a separate return for his current taxable year.

(d) For rules relating to invalid withholding exemption certificates, see § 31.3402(f)(2)–1(e), and for rules relating to submission to the Internal Revenue Service of withholding exemption certificates claiming a complete exemption from withholding, see § 31.3402(f)(2)–1(g).

(e) *Example 1.* Employee A, an unmarried, calendar-year basis taxpayer, files his income tax return for 1970 on April 15, 1971. A has adjusted gross income of \$1,200 and is not liable for any tax. He had \$180 of income tax withheld during 1970. A anticipates that his gross income for 1971 will be approximately the same amount, and that he will not incur income tax liability for that year. On April 20, 1971, A commences employment and furnishes his employer an exemption certificate stating that he incurred no liability for income tax imposed under subtitle A for 1970, and that he anticipates that he will incur no liability for income tax imposed under subtitle A for 1971. A's employer shall not deduct and withhold on payments of wages made to A on or after April 20, 1971. Under § 31.3402(f)(4)–1(c), unless A files a new exemption certificate with his employer, his employer is required to deduct and withhold upon payments of wages to A made on or after May 1, 1972. Under § 31.3402(f)(3)–1(b), if A had been employed by his employer prior to April 20, 1971, and had furnished his employer a withholding exemption certificate not containing the statements described in § 31.3402(n)–1 proir to furnishing the withholding exemption certificate containing such statements on April 20, 1971, his employer would not be required to give effect to the new certificate with respect to payments of wages made by him prior to July 1, 1971 (the first status determination date which occurs at least 30 days after April 20, 1971). However his employer could, if he chose, make the new certificate effective with respect to any payment of wages made on or after April 20 and before July 1, 1971.

Example 2. Assume the facts are the same as in *Example 1* except that for 1970 A has taxable income of \$8,000, income tax liability of \$1,630, and income tax withheld of \$1,700. Although A received a refund of \$70 due to income tax withholding of \$1,700, he may not state on his exemption certificate that he incurred no liability for income tax imposed by subtitle A for 1970.

Mark E. Matthews,
Deputy Commissioner for Services and Enforcement.

[FR Doc. 05–71 Filed 1–4–05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–04–129]

RIN 1625–AA09

Drawbridge Operation Regulations; Townsend Gut, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to temporarily change the drawbridge operation regulations for the operation of the SR 27 Bridge, at mile 0.7, across Townsend Gut, between Boothbay Harbor and Southport, Maine. This temporary rule would require the bridge to open at specific times between 6 a.m. and 6 p.m., each day, from March 1, 2005, through November 30, 2005.

Additionally, this temporary rule would also allow the bridge to remain closed for four periods of four days each between March 1, 2005, and May 26, 2005. This action is necessary to help facilitate rehabilitation construction at the bridge.

DATES: Comments must reach the Coast Guard on or before March 7, 2005.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–04–129), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The SR 27 Bridge has a vertical clearance of 10 feet at mean high water, and 19 feet at mean low water in the closed position. The existing drawbridge operating regulations under 33 CFR 117.5 require the bridge to open on signal at all times.

The bridge owner, Maine Department of Transportation, has requested a temporary rule to allow the bridge to open at specific times of either two or three hour intervals between 6 a.m. and 6 p.m., from March 1, 2005, through November 30, 2005. The purpose of this temporary rule is to help facilitate rehabilitation construction at the bridge. Frequent unscheduled bridge openings would greatly limit the progress of the rehabilitation project.

Under this temporary rule, effective from March 1, 2005, through November 30, 2005, the SR 27 Bridge would operate as follows:

From March 1, 2005, through May 26, 2005, and from September 6, 2005, through November 30, 2005, the draw

would open on signal every three hours at 6 a.m., 9 a.m., 12 p.m., 3 p.m. and 6 p.m., daily. From 6 p.m. to 6 a.m. and on holidays, the draw would open on signal.

From May 27, 2005, through September 5, 2005, the draw would open on signal every two hours at 6 a.m., 8 a.m., 10 a.m., 12 p.m., 2 p.m., 4 p.m., and 6 p.m., daily. From 6 p.m. through 6 a.m. and federal holidays, the draw would open on signal.

In addition, the bridge would also be allowed under this temporary rule to remain closed for four periods of four days each between March 1, 2005, and May 26, 2005. The exact dates of the closures would be set out in the final rule and would be announced in the Local Notice to Mariners and the local newspapers at least ten days prior to implementation.

Discussion of Proposed Rule

This proposed change would amend 33 CFR part 117 by adding a new temporary section 33 CFR 117.T536 from March 1, 2005, through November 30, 2005, that would list the temporary drawbridge operation regulations for the SR 27 Bridge.

The bridge owner requested a temporary regulation to help facilitate a major rehabilitation project at the bridge. Frequent unscheduled bridge openings would greatly limit the progress of the rehabilitation project.

Mariners also may transit an available alternate route around Southport Island during time periods the bridge is closed to vessel traffic.

The Coast Guard believes this rule is reasonable based upon all the above information.

Regulatory Evaluation

This proposed 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 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.

This conclusion is based on the fact that vessel traffic will still be able to transit through the SR 27 Bridge under a fixed opening schedule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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 of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that vessel traffic will still be able to transit through the SR 27 Bridge under a fixed opening schedule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact us in writing at, Commander (obr), First Coast Guard District, Bridge Branch, 408 Atlantic Avenue, Boston, MA. 02110–3350. The telephone number is (617) 223–8364. 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 proposed rule would call 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 proposed 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 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under 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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From March 1, 2005, through November 30, 2005, § 117.T536 is temporarily added to read as follows:

§ 117.T536 Townsend Gut.

The draw of the SR 27 Bridge, mile 0.7, across Townsend Gut shall operate as follows:

(a) From March 1, 2005 through May 26, 2005, and from September 6, 2005 through November 30, 2005, the draw shall open on signal at 6 a.m., 9 a.m., 12 p.m., 3 p.m., and 6 p.m., daily. From 6 p.m. through 6 a.m., and on Federal holidays, the draw shall open on signal.

(b) From May 27, 2005 through September 5, 2005, the draw shall open on signal at 6 a.m., 8 a.m., 10 a.m., 12 p.m., 2 p.m., 4 p.m., and 6 p.m., daily. From 6 p.m. through 6 a.m., and on Federal holidays, the draw shall open on signal.

(c) Between March 1, 2005 and May 26, 2005, the bridge may remain in the closed position for four periods of four days each [dates to be inserted at final rule].

Dated: December 3, 2004.

David P. Pekoske,

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

[FR Doc. 05–262 Filed 1–4–05; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–3877; MB Docket No. 04–436; RM–11112]

Radio Broadcasting Services; Cannelton and Tell City, Indiana

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Hancock Communications, Inc. (“Petitioner”), licensee of Station WLME(FM), Channel 275C3, Cannelton, Indiana, and Station WTCJ–FM, Channel 289A, Tell City, Indiana. Petitioner requests that Channel 275C3 be reallocated from Cannelton to Tell City and that Station WLME(FM)’s license be modified accordingly. Petitioner also requests that Channel 289A be reallocated from Tell City to Cannelton, Indiana, and that Station WTCJ–FM’s license be modified accordingly. The coordinates for proposed Channel 289A at Cannelton are 37–48–13 NL and 86–48–57 WL, with a site restriction of 13.5 kilometers (8.4 miles) southwest of

Cannelton. The coordinates for proposed Channel 275C3 at Tell City are 37–50–52 NL and 86–36–18 WL, with a site restriction of 18.4 kilometers (11.4 miles) southeast of Tell City.

Since Petitioner’s reallocation proposals comply with the provisions of section 1.420(i) of the Commission’s rules, the Commission will not accept competing expressions of interest in the use of Channel 289A at Cannelton, Indiana, or the use of Channel 275C3 at Tell City, Indiana, or require the Petitioner to demonstrate the availability of additional equivalent class channels in those communities.

DATES: Comments must be filed on or before February 10, 2005, and reply comments on or before February 25, 2005.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner’s counsel, as follows: John F. Garziglia, Esq. and Howard J. Barr, Esq., Womble Carlyle Sandridge & Rice, PLLC; 1401 Eye Street, NW., Seventh Floor; Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Notice of Proposed Rule Making, MB Docket No. 04–436, adopted December 15, 2004, and released December 20, 2004. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC’s Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be purchased from the Commission’s duplicating contractors, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or <http://www.BCPIWEB.com>.

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.