''guideline'' for decision making, and was intended by the Commission to apply solely in the context of a reparole decision made by the Commission during a Commission-conducted revocation proceeding. Under the rules of the Commission for federal offenders (which are now applied to District of Columbia offenders whose revocation hearings are conducted by the Commission after August 5, 2000), the Commission will attempt to address and resolve, at the revocation hearing, all allegations of criminal and non-criminal conduct bearing upon the period of parole in question. The reparole guidelines at § 2.21 will be assessed based upon the Commission's findings of fact, and a reparole decision will be issued by the Commission at the same time as the revocation decision itself. Because this was not the practice of the D.C. Board of Parole, the Commission did not intend that the fact-finding provisions of § 2.21(a)(2) would be applicable in the context of a reconsideration hearing conducted for a D.C. offender whose parole was previously revoked by the D.C. Board of Parole. When issues of fact relevant to the question of reparole have been left unresolved by the Board, the Commission must be able to address them at the reparole stage.

When the Commission adopted 28 CFR 2.81, the Commission intended that such unresolved issues of fact be determined at a reconsideration hearing under the procedures of 28 CFR 2.72, just as in the case of any other parole applicant with unadjudicated allegations bearing upon the prisoner's suitability for release to the community. At an initial parole hearing, there may be unadjudicated allegations of criminal conduct, including dismissed criminal charges and other allegations of unlawful behavior described in the presentence investigation report or other documents, which the Commission must resolve in order to determine whether the prisoner is safe to release on parole. Under Rule 32(c)(1) of the Federal Rules of Criminal Procedure, federal sentencing judges have the option, when allegations in a presentence investigation report are challenged at the sentencing hearing, of determining that ''no finding is necessary.'' In such cases, the Commission is permitted to make an independent determination of fact notwithstanding the court's decision to make ''no finding.'' *See, e.g., Ochoa* v. *United States,* 819 F.2d 366 (2d. Cir. 1987) and *Lewis* v. *Beeler,* 949 F.2d 325(10th Cir. 1991). The same principle applies to a reparole applicant whose parole was revoked by the D.C. Board of Parole. *Sparks* v. *Gaines,* 2001 WL 568004 (D.D.C. May 17, 2001).

Moreover, the due process that governs the decision to revoke parole and to return a parolee to prison under *Morrissey* v. *Brewer,* 408 U.S. 471 (1972), no longer applies once the revocation proceeding is concluded, and the parolee has been returned to prison. Under D.C. Code Section 24–206(a), the offender is legally presumed to have been returned to prison to serve the remainder of his sentence ''unless subsequently reparoled,'' so the Commission's fact-finding procedures may constitutionally be the same for parole as well as reparole applicants.

The Commission is therefore amending 28 CFR 2.81(d) to clarify its intent that it will apply the guidelines of § 2.21, to call reparole decisions, but will follow the fact-finding procedures that apply to initial hearings under § 2.72. *See* 28 CFR 2.19(c), incorporated for D.C. offenders at 28 CFR 2.89 (2000).

Implementation

This amendment to 28 CFR 2.81 shall be fully retroactive to all reparole decisions of the Commission from August 5, 1998, forward, and shall apply to all reparole decisions made by the Commission in the future with respect to offenders whose paroles were revoked by the D.C. Board of Parole. Moreover, the amended rule shall also apply to any reparole consideration by the Commission where new information has arisen since the time of the offender's revocation hearing, and that information is relevant to the offender's suitability for reparole. This interpretative rule conforms to Commission's original intent, and does not constitute in any respect a change in the Commission's decision-making policy or practice.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this final rule does not constitute a significant rule within the meaning of Executive Order 12866. The final rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to Section 804(30(c) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

The Final Rule

Accordingly, the U.S. Parole Commission is adopting the following amendment to 28 CFR Part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Section 2.81 is amended to add the following two sentences to the end of paragraph (d):

§ 2.81 Reparole decisions.

* * * * *

(d) * * * If the prisoner is serving a period of imprisonment imposed upon revocation of his parole by the D.C. Board of Parole, the Commission shall consider all available and relevant information concerning the prisoner's conduct while on parole, including any allegations of criminal or administrative violations left unresolved by the Board, pursuant to the procedures applicable to initial hearings under § 2.72 and § 2.19(c). The same procedures shall apply in the case of any new information concerning criminal or administrative violations of parole presented to the Commission for the first time following the conclusion of a revocation proceeding that resulted in the revocation of parole and the return of the offender to prison.

Dated: July 6, 2001.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 01–17793 Filed 7–16–01; 8:45 am]

BILLING CODE 4410–31–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

RIN 1218–AA65

Safety Standards for Steel Erection

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final rule; delay of effective date.

SUMMARY: By this document the Occupational Safety and Health

Administration (OSHA) revises the effective date of the new final rule for steel erection, Subpart R of 29 CFR Part 1926, which was published on January 18, 2001. The original effective date was to be July 18, 2001. Since publication of the standard, however, employers have contacted OSHA with a wide range of questions regarding whether, and how, the standard will be applied to projects that are in various stages of completion as of July 18, 2001. Specifically, employers have expressed concerns about their ability to comply with the new standard by that date, particularly with regard to provisions that address construction safety design aspects of structural components. To address these problems, and to allow additional time for the Agency to explain the new standard to the affected industry, the effective date of the standard is changed to January 18, 2002.

DATES: The effective date of the amendments to 29 CFR part 1926 published on January 18, 2001 at 66 FR 5196 is delayed from July 18, 2001 until January 18, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Public Affairs, Room N–3647, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, DC 20210; telephone: (202) 693–1999.

SUPPLEMENTARY INFORMATION:

I. Background

On January 18, 2001 (66 FR 5196) OSHA published a final safety standard for steel erection, with an effective date of July 18, 2001. A number of provisions in the final rule address the safety of certain structural components. These provisions (''component requirements'') contain requirements for these components to help ensure that the structure can be erected safely. For example, there are provisions that prohibit shear connectors on members before they are erected (§ 1926.754(c)(1)(i)); require all columns to be anchored by a minimum of 4 anchor bolts, which must meet specified strength requirements (§ 1926.755(a)) (there is a comparable requirement for systems-engineered metal buildings, § 1926.758(b)); set requirements for double connections (§ 1926.756(c)(1)) (there is a comparable requirement for systems-engineered metal buildings § 1926.758(e)); require column splices to be at a specified height and meet a strength requirement (§ 1926.756(d)); require perimeter columns to have holes or other devices for perimeter safety cables (§ 1926.756(e)); in some instances require a vertical stabilizer plate to stabilize steel joists (§ 1926.757(a)(1)(i)); require certain joists to be strong enough to allow one employee to release the hoisting cable without the need for erection bridging (§ 1926.757(a)(3)), and require certain joists to be fabricated to allow for field bolting during erection (§ 1926.757(a)(8)(i)).

On January 20, 2001, Andrew H. Card, Jr., the Assistant to the President and Chief of Staff, issued a memorandum entitled ''Regulatory Review Plan'' (66 FR 7702). The memorandum directed that, with respect to regulations published in the **Federal Register** that had not yet taken effect, agencies were to temporarily postpone the effective date of the regulations for 60 days, subject to certain exceptions.

Since publication of the standard, a number of employers in the steel erection industry have asked whether the final rule will be applied to projects in various stages of completion as of the effective date. For example, they have asked if and how the standard will apply to a steel erection project when: (1) The project was designed before July 18, 2001; (2) the structural components were fabricated before that date and do not meet the requirements in the final rule, and (3) the steel erection work for the project began before that date and construction is continuing afterwards.

II. New Effective Date

These questions have highlighted a need to give the industry additional time to comply with the final rule. As explained below, we believe that changing the effective date to January 18, 2002 will give the industry sufficient time to adjust to the new requirements.

Based on information available to the Agency, we understand that, while the design of structural components can be changed, some time is necessary to make changes needed to conform to the final rule's requirements. Components are typically fabricated 2 or 3 months prior to being erected. Not only would it be very costly to have to re-fabricate components that were already-made, such re-fabrication would cause serious delays to the project, affecting all the trades involved. The new effective date will give an additional 6 months to facilitate these changes. The additional 6 months should ensure that re-fabrication of already made components will be unnecessary. In addition, there will be additional time for the Agency to conduct outreach activities on the new standard, in order to inform employers and employees of the requirements of the standard.

III. How The New Effective Date Will Be Applied to Component Requirements

There are two situations that could cause significant confusion under the new standard: (1) Components used in steel erection projects that were designed before the final rule was *published* (January 18, 2001), and for which a building permit was obtained prior to that date; and (2) components used in steel erection projects in which the steel erection work has begun before the final rule becomes effective (originally July 18, 2001, now to be January 18, 2002). We will apply the component requirements of the final rule to these situations as follows:

Building Permits Obtained Before January 18, 2001

It is easier to alter a structural design before the building permit has been obtained, since changes prior to that point do not need as many reviews and approvals as are needed afterwards. Therefore, where a building permit was obtained before the final rule was published (January 18, 2001), the component requirements referred to above will not apply to the project.

Steel Erection Work Begins Before January 18, 2002

It would be difficult, costly and confusing to begin to comply with the new component requirements to a project in which steel erection work has started under the previous steel erection standard. (For example, the column splice height on a lower floor affects the column splice height on successive floors. The new standard makes significant changes in this area.) Since the final rule was published on January 18, 2001, employers have been on notice that the new standard's stated effective date was July 18, 2001, and they have been expected to make plans to meet the new requirements. However, on May 14, 2001, the Department published its Semi-Annual Regulatory Agenda (66 FR 25679), in which the effective date of the final rule was listed as September 16, 2001. Since that publication, affected employers have expressed confusion as to when the final rule would actually go into effect.

As of January 18, 2002, some steel erection projects will be partly completed. Since some employers may have been expecting the rule to go into effect on September 16, 2001 (rather than July 18, 2001), we will use that date to determine whether projects partially completed on January 18, 2002 will be subject to the component provisions in the final rule. In sum, the

component requirements of the final rule will not be applied to those projects if the steel erection had begun on or before September 16, 2001.

IV. Further Guidance on Section 1926.757(a)(3)

The Steel Joist Institute (SJI) has asked the Agency to delay implementation of § 1926.757(a)(3) for two years. That provision requires that, ''where steel joists at or near columns span 60 feet (18.3m) or less, the joist shall be designed with sufficient strength to allow one employee to release the hoisting cable without the need for erection bridging.'' SJI has informed OSHA that they have encountered unanticipated problems in developing some of the longer joists that will meet this requirement. OSHA intends to address this issue separately.

Paperwork Reduction Act

The information requirements of the steel erection standard have been approved under OMB Control Number 1218–0237. The present regulatory action delays the effective date of that standard and imposes no additional paperwork burdens.

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601), the Acting Assistant Secretary certifies that the delay in the effective date of the steel erection standard will not have a significant adverse impact on a substantial number of small entities.

Executive Order 12866

The delay in the effective date of the steel erection standard is not a significant regulatory action for the purposes of Executive Order 12866.

Exemption from Notice and Comment

To the extent that 5 U.S.C. 553 applies to this action, the Secretary finds that good cause exists to exempt this action from notice and comment, and to make it effective immediately upon publication today in the **Federal Register**. 5 U.S.C. 553(b)(B), 553 (d)(3).

As discussed above, prior official statements may have left the regulated community uncertain about when it would need to comply with the steel erection rule. In the last several weeks, OSHA has received a significant number of inquiries manifesting this uncertainty. The rule is currently scheduled to take effect on July 18, and the regulated community has an immediate need to know its obligations under the standard. In addition, the additional time needed for notice and comment would add further uncertainty about compliance obligations during that period. Accordingly, the Agency has determined that there is good cause to dispense with notice and comment and to make this delay effective immediately.

In summary, given the imminence of the effective date of the steel erection standard, seeking prior public comment on this delay is unnecessary and impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Authority

This document was prepared under the direction of R. Davis Layne, Acting Assistant Secretary for Occupational Safety and Health. It is issued under Section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), Sections 6 and 8 of the Occupational Safety and Health Act (29 U.S.C. 655, 657), and 5 U.S.C. 553.

Issued at Washington, DC, this 13th day of July, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–17944 Filed 7–16–01; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–089]

RIN 2115–AE47

Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills and Their Tributaries, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; extension of effective date period.

SUMMARY: The Coast Guard is extending a temporary final rule published March 23, 2001, governing the operation of the Pulaski Bridge, at mile 0.6, across the Newtown Creek between Brooklyn and Queens, New York. This extension will continue to allow the bridge owner to open only one bascule span for the passage of vessel traffic through September 30, 2001. This action is necessary to facilitate the completion of scheduled maintenance at the bridge.

DATES: Section 117.801 (a)(3) and (h) added at 66 FR 16129 effective April 23, 2001 through August 31, 2001 are extended in effect through September 30, 2001.

ADDRESSES: The public docket and all documents referred to in this notice are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7 a.m. to 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

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM.

This temporary final rule will extend the effective period previously published in the **Federal Register** on March 23, 2001 (66 FR 16128), as Drawbridge Operation Regulations Newtown Creek, Dutch Kills, English Kills, and their tributaries, New York. That temporary rule allowed a single span operation at the bridge from April 23, 2001 through August 31, 2001, to facilitate cleaning and painting the bridge.

The bridge owner subsequently advised the Coast Guard that the cleaning and painting operations would not be completed by August 31, 2001, due to lost work time as a result of inclement weather conditions. The bridge owner requested a second temporary final rule to extend the single span operation at the bridge an additional month from September 1, 2001 through September 30, 2001, to complete the maintenance at the bridge.

Accordingly, an NPRM was deemed unnecessary because no known waterway users have objected to the single span operation of the bridge and none have objected to extending it an additional 30 days. The additional 30 days of single span operation will further the public interest by permitting the uninterrupted completion of the necessary maintenance at the bridge.

Background

The Pulaski Bridge, at mile 0.6, across Newtown Creek between Brooklyn and Queens has a vertical clearance of 39 feet at mean high water and 43 feet at mean low water. The existing regulations require the draw to open on signal at all times.

The bridge owner, New York City Department of Transportation, requested a single bascule span operation in order to facilitate sandblasting and painting at the bridge.

The Coast Guard contacted all known users advising of the extension of the