

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.

#### Environment

We prepared an "Environmental Assessment" in accordance with Commandant Instruction M16475.1C and determined that this rule will not significantly affect the quality of the human environment. The "Environmental Assessment" and "Finding of No Significant Impact" is available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

#### PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary section, § 100.35–T05–003 is added to read as follows:

##### § 100.35–T05–003 Western Branch, Elizabeth River, Portsmouth, Virginia.

(a) *Regulated Area.* The waters of the Western Branch, Elizabeth River bounded by a line connecting the following points:

Latitude	Longitude
36°50'18" North	076°23'06" West, to
36°50'18" North	076°21'42" West, to
36°50'12" North	076°21'42" West, to
36°50'12" North	076°23'06" West, to
36°50'18" North	076°23'06" West

All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

##### (c) *Special Local Regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(d) *Effective Dates.* This section is effective from 11 a.m. on March 23, 2001 to 6 p.m. on March 24, 2001.

(e) *Enforcement Times.* This section will be enforced from 11 a.m. to 6 p.m. on March 23, 2001 and from 6:30 a.m. to 6 p.m. on March 24, 2001.

Dated: February 22, 2001.

**T. C. Paar,**

*Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 01–5441 Filed 3–5–01; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD09–01–001]

RIN–2115–AE47

#### Drawbridge Operation Regulations; Manitowoc River, Wisconsin

**AGENCY:** Coast Guard, DOT.

**ACTION:** Direct final rule.

**SUMMARY:** By this direct final rule, the Coast Guard is revising the operating regulations governing the Eighth Street bridge (mile 0.29), Tenth Street bridge (mile 0.43), and Wisconsin Central Railroad (formerly Soo Line) bridge (mile 0.91), all over the Manitowoc River in Manitowoc, Wisconsin. This rule would re-establish the operating schedules published in 1983, and erroneously removed by another rule in 1984.

**DATES:** This rule is effective on June 4, 2001, unless a written adverse comment, or written notice of intent to submit adverse comment, reaches Commander, Ninth Coast Guard District, on or before May 7, 2001. If an adverse comment, or notice of intent to submit an adverse comment, is received, the Coast Guard will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

**ADDRESSES:** Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199–2060 between 6:30 a.m. and 3

p.m., Monday through Friday, except federal holidays. The telephone number is (216) 902–6084.

The District Commander maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Scot M. Striffler, Project Manager, at (216) 902–6084.

#### SUPPLEMENTARY INFORMATION:

#### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting data, views or arguments for or against this rule. Persons submitting comments should include their name, address, identify this rulemaking (CGD09–01–001), the specific section of this rule to which each comment applies, and the reason(s) for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½" × 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

#### Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no adverse comments are anticipated. If no adverse comments or any written notice of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a notice in the **Federal Register** stating that no adverse comment was received and announcing confirmation that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the **Federal Register** to announce withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comments were received. The part of this rule that was the subject of adverse comments will be withdrawn. If the Coast Guard decides to proceed with a rulemaking, a

separate Notice of Proposed Rulemaking (NPRM) will be published and a new opportunity for comment provided.

A comment is considered "adverse" if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

### Background and Purpose

The Coast Guard published a final rule on September 22, 1983 (48 FR 43173), which completed a rulemaking to revise the bridge operating regulations for drawbridges on Manitowoc River, Wisconsin. The revised regulation was not included in the re-codified numbering of bridge regulations that occurred on April 24, 1984 (49 FR 17452). Commander, Ninth Coast Guard District, has reviewed the operating schedule adopted in 1983 and evaluated the present conditions of marine traffic and bridge operations in Manitowoc Harbor, WI, and determined that the adopted schedule adequately provides for the reasonable needs of navigation in the harbor. The adopted schedule has been enforced in Manitowoc for the past 17 years without any reported complaints or difficulties.

The Coast Guard has identified a minor change to the final rule of 1983; the Soo Line bridge at mile 0.9 is now owned by the Wisconsin Central railroad company. The bridge is correctly named in this direct final rule.

### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the Coast Guard review of impacts on commerce and marine activities in Manitowoc during the 17 years since the original final rule was published. There have been no reported problems or complaints with the bridge operating schedule.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The revised bridge regulations have been employed for approximately seventeen years with no complaints or problems for known small entities.

Therefore, 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.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and 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.

### Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132, and determined that this rule does not have federalism implications under that order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the federal government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

### Taking of Private Property

This rule will not effect 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.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. This rule changes a drawbridge regulation which has been found not to have a significant effect on the environment. A "Categorical Exclusion Determination" is not required.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

For reasons set out in the preamble, 33 CFR part 117 is revised 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); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.1089 to read as follows:

#### § 117.1089 Manitowoc River.

(a) The draws of the Eighth Street bridge, mile 0.29, and Tenth Street bridge, mile 0.43, both at Manitowoc, shall open on signal except that:

(1) From April 1 through October 31, Monday through Friday, the bridges need not open from 6:50 a.m. to 7 a.m., 7:50 a.m. to 8 a.m., 11:55 a.m. to 12:10 p.m., and 12:45 p.m. to 1 p.m., except federal holidays. From 10:30 p.m. to 4:30 a.m. the draws shall open on signal if at least a 6 hour advance notice is given.

(2) From November 1 through March 31 the draws shall open on signal if at least a 12 hour advance notice is given.

(3) The opening signals for these bridges are:

(i) Eighth Street—one prolonged blast followed by one short blast.

(ii) Tenth Street—two short blasts followed by one prolonged blast.

(4) When signal is given by car ferry or other large vessel to pass either of the two bridges, the remaining bridge shall open promptly so that such vessels shall not be held between the two bridges.

(b) The draw of the Wisconsin Central railroad bridge, mile 0.91 at Manitowoc, shall open on signal except that:

(1) From April 1 through October 31 between the hours of 10:30 p.m. and 4:30 a.m., the draws shall open on signal if at least a 6 hour advance notice is given.

(2) From November 1 through March 31 the draw shall open on signal if at least a 12 hour advance notice is given.

(3) Opening signal for this bridge is two short blasts followed by one prolonged blast.

Dated: February 20, 2001.

**James D. Hull,**

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

[FR Doc. 01-5443 Filed 3-5-01; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900-AJ51

#### Revised Criteria for Monetary Allowance for an Individual Born With Spina Bifida Whose Biological Father or Mother Is a Vietnam Veteran

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the evaluation criteria that the Department of Veterans Affairs (VA) uses to determine the amount of the monthly monetary allowance that it pays to an individual born with spina bifida whose biological father or mother is a Vietnam veteran. The intended effect of this amendment is to clarify the criteria to ensure that they are applied consistently and to add a provision allowing the Director of the Compensation and Pension Service to adjust the payment level for individuals with disabling impairments due to spina bifida that are not addressed in the evaluation criteria.

**DATES:** *Effective Date:* This amendment is effective April 5, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Caroll McBrine, M.D., Consultant, Policy and Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration,

Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273-7230.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of March 13, 2000 (65 FR 13254), we published a proposal to revise the criteria for determining the level of payment for an individual born with spina bifida whose biological father or mother is a Vietnam veteran. The proposed revisions were developed based on VA's review of a sample of adjudicated spina bifida claims to determine the effectiveness of the evaluation criteria and how they were applied, a further review of the medical literature, and suggestions from several veterans service organizations. The proposed evaluation criteria were based on certain medical impairments due to spina bifida and on the disabling effects of those impairments on ordinary day-to-day activities. We also proposed to allow the Director of the Compensation and Pension Service to increase the payment level for an individual with spina bifida who has such impairments as blindness, uncontrolled seizures, or renal failure.

In addition, we proposed to change the references to "child" and "children" to "individual" and "individuals" throughout 38 CFR 3.814 and to define the word "individual" to make it clear that the regulation applies to eligible individuals regardless of age.

We received one comment, which was from the Veterans of Foreign Wars.

Under VA's initial evaluation criteria for individuals with disabilities due to spina bifida, the effects of bowel and bladder impairment were evaluated as follows: Level I if "continent of urine and feces"; Level II if "requires drugs or intermittent catheterization or other mechanical means to maintain proper urinary bladder function, or mechanisms for proper bowel function"; and Level III if "has complete urinary or fecal incontinence." We proposed that the effects of bowel and bladder impairment be evaluated as follows: Level I if "continent of urine and feces without the use of medication or other means to control incontinence"; Level II if "requires medication or other means to control the effects of urinary bladder impairment and is unable no more than two times per week to remain dry for at least three hours at a time during waking hours; or, requires bowel management techniques or other treatment to control the effects of bowel impairment but does not have fecal leakage severe or frequent enough to require daily wearing of absorbent materials"; and Level III if "despite the use of medication or other means to

control the effects of urinary bladder impairment, at least three times per week is unable to remain dry for three hours at a time during waking hours; or, despite bowel management techniques or other treatment to control the effects of bowel impairment, has fecal leakage severe or frequent enough to require daily wearing of absorbent materials; or, regularly requires manual evacuation or digital stimulation to empty the bowel."

The commenter suggested that we change the Level III requirement for "daily wearing of absorbent materials" to "wearing of absorbent materials on most days" because a requirement for daily wearing of absorbent materials is too stringent, considering that constipation may occur intermittently and absorbent materials not be necessary for a day or two.

On further consideration, we agree that the commenter's suggested change would be an improvement, in view of the fact that when constipation is present, the individual might feel comfortable not wearing absorbent materials for a day or so, although they would ordinarily wear them on most days and be incontinent a substantial part of the time. We have therefore revised the criteria for Level III by changing "daily wearing of absorbent materials" to "wearing of absorbent materials at least four days a week" and revised the Level II criteria accordingly.

The commenter also felt that Level III should be assigned for those who undergo a surgical procedure that permanently alters the structure and/or function of the bowel or bladder, for example, a colostomy, because these surgical alterations and appliances disrupt day-to-day activities as much as the frequent need to wear absorbent materials.

We agree in part with the commenter. There are a number of surgical procedures and appliances that may be used to improve bowel and bladder function. At times they make an individual continent or at least decrease the extent or frequency of incontinence; however, they are not always successful. For example, an artificial bladder sphincter that is implanted for urinary incontinence might result in improved bladder function with diminished incontinence or no incontinence at all, but it might also fail to improve bladder function significantly. When an individual must use appliances or undergo surgical procedures, at least a Level II assignment would be warranted because such use or procedure is akin to the use of medication or other means to control the effects of urinary bladder impairment. If the device or surgery does not restore continence sufficiently,