

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).

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 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 Executive Order 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 might 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. 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 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 environmental documentation. Under figure 2-1, paragraph (32)(e), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed 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 authority of Pub. L. 102-587, 106 Stat. 5039.

§ 117.911 [Amended]

2. In § 117.911 remove and reserve paragraph (b).

Dated: February 19, 2004.

Harvey E. Johnson, Jr.,

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

[FR Doc. 04-4778 Filed 3-3-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-04-015]

RIN 1625-AA09

Drawbridge Operation Regulations; CSX Railroad, Manatee River, Mile 4.5, Bradenton, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of the CSX Railroad Bridge across the Manatee River, mile 4.5, Bradenton, Florida. This proposed rule would allow the bridge to operate using an automated system, without an onsite bridge tender. Currently, the bridge is required to open on signal.

DATES: Comments and related material must reach the Coast Guard on or before May 3, 2004.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Ave., Room 432, Miami, FL 33131. Comments and material received from the public, as well as documents indicated in the preamble as being available in the docket, are part of docket (CGD07-04-015) and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Seventh Coast Guard District, Bridge Branch, telephone number (305) 415-6743.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD07-04-015), 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 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. However, you may submit a request for a meeting by writing to Bridge Branch, Seventh Coast Guard District, 909 SE. 1st Ave., Room 432, Miami, FL 33131, 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 CSX Railroad owner has requested that the Coast Guard remove the existing regulations governing the operation of the CSX Railroad Bridge over the Manatee River and allow the bridge to operate utilizing an automated system. The request is made because there are only four short train transits per day. Under the proposed rule, the bridge would remain in the open position to vessel traffic at all other times.

The CSX Railroad Bridge is located on the Manatee River, mile 4.5, Bradenton, Florida. The current regulation governing the operation of the CSX Railroad Bridge is published in 33 CFR 117.5 and requires the bridge to open on signal.

Discussion of Proposed Rule

The Coast Guard proposes to change the operating regulations of the CSX Railroad Bridge so that the bridge can operate automatically. There are only four train transits per day across this bridge. The proposed action would remove the requirement that a bridge tender be present to open the bridge on signal for vessel traffic. The bridge would remain in the open position until a train approaches to cross the bridge.

When a train approaches, the CSX signal department will send an electronic signal to the bridge to order the closure sequence to begin. The bridge control system will activate a series of scanners along the water level to detect any marine traffic within the bridge closure area. The bridge control system will turn off the green channel markers, turn on the red bridge warning strobe lights, and simultaneously sound a signal, which will last throughout the entire closing period. The bridge shall remain in the closed position to vessel traffic until the train has sufficiently cleared the bridge area. When the train has cleared, the bridge control system will again sound a signal for the entire period the bridge is opening. When the bridge is in the fully open position, the red bridge warning strobe lights will turn off, and the green channel marker lights will relight. The bridge will remain in the open to vessel traffic position until the next train crossing.

If at any time during the opening or closing sequence, the scanners detect a vessel within the bridge structure, the opening or closing sequence will automatically be halted until the vessel clears the structure. Additional strobe lighting will be placed on the structure to warn vessels of impending closure.

Signs will be posted on both sides of the navigation channel indicating, "Caution; this bridge operates by remote control." A toll-free, CSX contact telephone number will be posted on the signs for emergencies.

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 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the policies and procedures of the Department of Homeland Security is unnecessary. Vessel traffic will be able to transit under the bridge with the exception of the short closure periods required for the trains to transit over the bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule will affect vessel traffic under the bridge and daily train crossings over the bridge. However, the proposed rule will not change the number of times the bridge will need to be in a closed position for trains. Additionally, the bridge will remain in the open to navigation position at all other times for the benefit of vessel traffic.

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 to the address under **ADDRESSES**. In your comment, explain 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 (Public Law 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 this proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

We also have a point of contact for comment on actions by employees of the Coast Guard. 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).

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Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

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Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, 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 environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

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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 authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.300 [Redesignated as § 117.299]

2. Redesignate § 117.300 as § 117.299.
3. Add a new § 117.300 to read as follows:

§ 117.300 Manatee River.

The draw of the CSX Railroad Bridge across the Manatee River, mile 4.5 at Bradenton, operates as follows:

- (a) The bridge is not tended.
- (b) The draw is normally in the fully open position, displaying green lights to indicate that vessels may pass.
- (c) As a train approaches, provided the scanners do not detect a vessel under the draw, the lights change to flashing red and a horn continuously sounds while the draw closes. The draw remains closed until the train passes.
- (d) After the train clears the bridge, the lights continue to flash red and the horn again continuously sounds while the draw opens, until the draw is fully open and the lights return to green.

Dated: February 23, 2004.

Harvey E. Johnson, Jr.,

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

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 19 and 20

RIN 2900–AE78

Board of Veterans' Appeals: Appeals Regulations; Rules of Practice

AGENCY: Department of Veterans Affairs.
ACTION: Withdrawal of proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) published a proposed rule in the *Federal Register* on February 3, 1992 (57 FR 4131) to amend its regulations regarding the Appeals Regulations and Rules of Practice of the Board of Veterans' Appeals. The proposed rule and the comments we received have been superseded by events. Accordingly, this document hereby withdraws the proposed rule.

DATES: The proposed rule is withdrawn as of March 4, 2004.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (012), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: In 1988, the Veterans' Judicial Review Act (Pub. L. 100–687, Div. A) was signed into law. On August 18, 1989, VA published a proposed rule in the *Federal Register* (54 FR 34334) to revise the Appeals Regulations and Rules of Practice of the Board of Veterans' Appeals (Board). The revisions were deemed necessary in order to provide appellate procedures that conformed to the law and to inform the public about those procedures.

Based on that proposed rule, on February 3, 1992, VA published in the