

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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial and 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.

#### 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this 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 rule is categorically excluded under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections. Under figure 2–1, paragraph (34)(h), 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 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—SAFETY OF LIFE ON NAVIGABLE WATERS

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

**Authority:** 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1

■ 2. Add a temporary section, § 100.35-T05–129 to read as follows:

#### § 100.35–T05–129, Atlantic Ocean, Atlantic City, NJ.

(a) *Regulated area.* The regulated area is established for the waters of the Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: southeasterly from a point along the shoreline at latitude 39°21'50" N, longitude 074°24'37" W, to latitude 39°20'40" N, longitude 74°23'50" W, thence southwesterly to latitude 39°19'33" N, longitude 074°26'52" W, thence northwesterly to a point along the shoreline at latitude 39°20'43" N, longitude 74°27'40" W, thence northeasterly along the shoreline to latitude 39°21'50" N, longitude 074°24'37" W. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Atlantic City.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Group Atlantic City with a commissioned, warrant, or petty officer

on board and displaying a Coast Guard ensign.

(3) *Participating Vessels* include all vessels participating in the OPA Atlantic City Grand Prix under the auspices of the Marine Event Application submitted by the Offshore Performance Association, and approved by the Commander, Coast Guard Group Atlantic City.

(c) *Special local regulations:*

(1) Except for participating vessels and 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.

(ii) Proceed as directed by any official patrol.

(d) *Effective period.* This section is effective from 9:30 a.m. to 3:30 p.m. on July 18, 2004.

Dated: July 2, 2004.

**Sally Brice-O'Hara,**

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

[FR Doc. 04–16380 Filed 7–16–04; 8:45 am]

**BILLING CODE 4910–15–P**

#### 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:** Final rule.

**SUMMARY:** The Coast Guard is changing the operating regulations of the CSX Railroad Bridge across the Manatee River, mile 4.5, Bradenton, Florida. This rule allows the bridge to operate using an automated system, without an onsite bridge tender.

**DATES:** This rule is effective August 18, 2004.

**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 [CGD07–04–015] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except

Federal holidays. Bridge Branch (obr), Seventh Coast Guard District, maintains the public docket for this rulemaking.

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

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

On March 4, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; CSX Railroad, Manatee River, Mile 4.5, Bradenton, Florida, in the **Federal Register** (69 FR 10183). We received 1 comment on this proposed rule. No public hearing was requested, and none was held.

**Background and Purpose**

The CSX Railroad owner requested the Coast Guard change the existing 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 rule, the bridge would remain in the open to vessel traffic position 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 is published in 33 CFR 117.5 and requires the bridge to open on signal.

**Discussion of Comments and Changes**

The Coast Guard is changing the operating regulations of the CSX Railroad Bridge so that the bridge can operate automatically. There are only four train transits per day across the bridge. The action would remove the requirement that a bridge tender be present to open the bridge on signal for vessel traffic. The bridge will remain in the open to vessel traffic 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 closures.

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.

We received one comment on the NPRM. The commentor recommends a horn not to be sounded during opening and closing situations and that the CSX should announce bridge openings on marine band radios. We determined that removing the horn requirement would be detrimental to vessel safety. It would be impractical to add broadcast openings on marine band radios, as there is a notification process in place at the bridge: lights, horns and signage.

**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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The rule improves vessel traffic through the bridge, as it is in the open to vessel traffic position except during the approximately four times a day when a train passes.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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 of 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. The rule improves vessel traffic through the bridge.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard offered small businesses, organizations, or governmental jurisdictions that believed the rule would affect them, or that had questions concerning its provisions or options for compliance, to contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

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).

**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 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

### 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 will not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

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

### Environment

We have analyzed this 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 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.

■ For the reasons discussed 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; 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]

■ 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 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: July 8, 2004.

**W.E. Justice,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD07–04–014]

RIN 1625–AA09

### Drawbridge Operation Regulations; Socastee River (SR 544), Atlantic Intracoastal Waterway, Mile 371, Horry County, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing the regulations governing the operation of the Socastee (SR 544) Swing Bridge across the Atlantic Intracoastal Waterway, mile 371, Horry County, SC. This rule will require the bridge to open on signal.

**DATES:** This rule is effective August 18, 2004.

**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 [CGD07–04–014] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Bridge Branch (obr), Seventh Coast Guard District, maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Project Manager, Seventh Coast Guard District, Bridge Branch, (305) 415–6743.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

On March 4, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Socastee River (SR 544), Atlantic Intracoastal Waterway, Mile 371, Horry County, SC, in the **Federal Register** (69 FR 10182). We received no comments on the proposed rule. No