

**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:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to remove the regulations governing the operation of the Socastee (SR 544) Swing Bridge across the Atlantic Intracoastal Waterway, mile 371, Horry County, South Carolina. This proposed rule would require the bridge 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 [CGD07-04-014] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 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, 909 SE. 1st Ave., Miami, FL 33131, 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 [CGD07-04-014], 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 South Carolina Department of Transportation has requested that the Coast Guard remove the existing regulations governing the operation of the Socastee (SR 544) Swing Bridge and allow the bridge to open on signal. The request is made because of the close proximity of a new high-level fixed bridge. The majority of vehicular traffic in the area currently utilizes the high-level fixed bridge.

The Socastee (SR 544) Swing Bridge is located on the Atlantic Intracoastal Waterway, mile 371, Horry County, South Carolina. The current regulation governing the operation of the Socastee Swing Bridge is published in 33 CFR 117.911(b) and requires the bridge to open on signal; except that, from April 1 through June 30 and October 1 through November 30 from 7 a.m. to 10 a.m. and 2 p.m. to 6 p.m. Monday through Friday, except Federal holidays, the draw need open only on the quarter and three-quarter hour. From May 1 through June 30 and October 1 through October 31 from 10 a.m. to 2 p.m., Saturdays, Sundays and Federal holidays, the draw need open only on the quarter and three-quarter hour.

**Discussion of Proposed Rule**

The Coast Guard proposes to change the operating regulations of the Socastee Swing Bridge to open on signal. A new high-level fixed bridge has recently been constructed in close proximity to the swing bridge and currently the majority of vehicular traffic utilizes this new bridge. This action would remove the regulations that provide for scheduled openings for the swing bridge and improve navigation for vessels transiting the area.

**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. By opening on signal, the swing bridge would meet the needs of navigation and obviate the need to meet any scheduled openings.

**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, because the proposed rule would remove scheduled openings restrictive to vessel traffic. Vehicular traffic, on the other hand, can use the new bridge nearby to transit over the waterway.

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 (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 consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

There is also 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).

### 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.*

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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.