

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117****[CGD08-03-007]****RIN 1625-AA09****Drawbridge Operation Regulation; Apalachicola River, River Junction, FL****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

SUMMARY: The Coast Guard is changing the existing drawbridge operation regulation for the draw of the CSX Railroad swing bridge across the Apalachicola River, mile 105.9, at River Junction (near Chattahoochee), Florida. The regulation will allow the bridge to be unmanned and remain closed during hours of infrequent traffic with an advance notification requirement to open the bridge.

DATES: This rule is effective August 21, 2003.

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 the docket and are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130-3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Bridge Administration Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, at (504) 589-2965.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On April 10, 2003, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Apalachicola River, River Junction, Florida in the **Federal Register** (68 FR 17571). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The CSX swing bridge across the Apalachicola River, mile 105.9, presently opens on signal for the passage of vessels. The bridge owner has requested to change the operation regulations to reflect usage of the bridge by mariners. The request was made based upon a documented decrease in

the number of requests for openings in the last three years. In 2000, the bridge opened 63 times for the passage of vessels. In 2001, the bridge opened 38 times for the passage of vessels. In the first five months of 2002, the bridge opened 15 times for the passage of vessels. Information gathered regarding the decrease in vessel movements indicates that the closure of a sand and gravel facility above the bridge and a prolonged drought are the main contributing factors. While water elevations may return to their pre-drought levels, there is presently no evidence that the number of requests for bridge openings will increase in the future due to limited industrial development along the waterway. Accordingly, the bridge owner requested to change the operation regulations so that the bridge be allowed to open on signal from 8 a.m. until 4 p.m. Monday through Friday. At all other times, the bridge will open on signal if at least four hours advanced notification is given.

Discussion of Comments and Changes

No comments were received to the NPRM and no changes were made to the proposed regulation.

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).

This rule allows vessels ample opportunity to transit this waterway during normal weekdays and with minimal notification at all other times.

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.

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 rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 affect 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