

NATIONAL MEDIATION BOARD**29 CFR Parts 1202 and 1206**

[Docket No. C-6964]

RIN 3140-ZA00

Representation Election Procedure**AGENCY:** National Mediation Board.**ACTION:** Proposed rule; clarification.

SUMMARY: This document clarifies a proposed rule appearing in the **Federal Register** on November 3, 2009. The previous document did not include the factual basis for the National Mediation Board's certification, under Section 605 of the Regulatory Flexibility Act, that the proposed rule is not expected to have a significant economic impact on a substantial number of small entities. The proposed rule affects only the Board's election process and the method used by the Board to determine the outcome of a self-organization vote by employees. The proposed rule would not directly affect any small entities as defined under the Regulatory Flexibility Act. Accordingly, the National Mediation Board certifies that it will not have a significant impact on a substantial number of small entities.

DATES: Comments for the proposed rule published on November 3, 2009 (74 FR 56750) continue to be accepted until January 4, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Johnson, General Counsel, National Mediation Board, 202-692-5050, info@nmb.gov.

SUPPLEMENTARY INFORMATION: This document clarifies the proposed rule published on November 3, 2009 at 74 FR 56750. The Board is proposing to amend its Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class representative.

Dated: December 1, 2009.

Mary Johnson,

General Counsel, National Mediation Board.
[FR Doc. E9-28981 Filed 12-3-09; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[Docket No. USCG-2009-0959]

RIN 1625-AA09

Drawbridge Operation Regulation; Chehalis River, Aberdeen, WA, Schedule Change**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the drawbridge operation regulation for the U.S. Highway 101 bascule bridge across the Chehalis River, mile 0.1, at Aberdeen, Washington, so that one-hour notice would be required at all times. The change is necessary to allow the bridge owner to reduce the staffing requirements of the bridge in light of the infrequent openings requested for the bridge.

DATES: Comments and related material must reach the Coast Guard on or before February 2, 2010.

ADDRESSES: You may submit comments identified by the Coast Guard docket number USCG-2009-0959 using any one of the following methods:

- (1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- (2) *Fax:* 202-493-2251.
- (3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- (4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Austin Pratt, Chief, Bridge Section, Waterways Management Branch, 13th Coast Guard District; telephone 206-220-7282, e-mail william.a.pratt@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0959), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2009-0959" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the

“read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2009–0959” and click “Search”. Click the “Open Docket Folder” in the “Actions” column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting, but you may submit a request using one of the four methods under **ADDRESSES**. Please explain 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 proposed rule would enable the Washington State Department of Transportation, the owner of the Chehalis River Bridge, to operate the draw only if at least one-hour notice is provided at all times. This notice would be given by telephone to 360–533–9360. A marine radio will also be maintained at the bridge, but will only be monitored when a draw tender is present. Currently, one-hour notice is only required between 9 p.m. and 5 a.m.

From June through September 2009 the draw has not opened for large oceangoing vessels. The former ship traffic is now focused seaward of the bridge following the recent closure of timber terminals above the bridge. Currently, the bridge averages only seven openings a month during those daylight hours when a draw operator is present. The Washington State Department requested this change to reduce unnecessary staffing of the drawbridge in light of the infrequent openings requested for the bridge.

The waterway traffic at this drawbridge is composed of recreational

vessels and occasional tugs with barges. The Chehalis River is a major tributary of Grays Harbor.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR Part 117 by revising § 117.1031 Chehalis River to require one-hour notice for draw openings at all times.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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. The Coast Guard has made this determination based on the fact that vessel operators will not be significantly impacted since they will still be able to transit under the bridge by giving one-hour notice.

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 all vessel operators will not be significantly impacted since they will still be able to transit under the bridge by giving one-hour notice.

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 (*see ADDRESSES*) explaining 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 call or e-mail Austin Pratt, Chief, Bridge Section, Waterways Management Branch, 13th Coast Guard District; telephone 206–220–7282, e-mail *william.a.pratt@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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 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 proposed rule will 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 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 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. The Administrator of Information and Regulatory Affairs has not designated this 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, and 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

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; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.1031 to read as follows:

§ 117.1031 Chehalis River.

The draw of the U.S. 101 highway bridge, mile 0.1, at Aberdeen shall open on signal if at least one-hour notice is given at all times.

Dated: November 10, 2009.

G.T. Blore,

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

[FR Doc. E9-28907 Filed 12-3-09; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2009-0502; FRL-9088-9]

Approval and Promulgation of Implementation Plans; Kentucky: Revisions to the Kentucky State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP)

revision submitted by the Commonwealth of Kentucky on December 31, 2008, for the purpose of establishing transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures for the Commonwealth of Kentucky.

DATES: Comments must be received on or before January 4, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0502, by one of the following methods:

1. <http://www.regulations.gov>: Follow the online instructions for submitting comments.

2. *E-mail:* Somerville.Amanetta@epa.gov.

3. *Fax:* 404-562-9019.

4. *Mail:* "EPA-R04-OAR-2009-0502," Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier:* Ms. Amanetta Somerville, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2009-0502. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured