

## VI. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA)<sup>184</sup> requires agencies to prepare a written statement for rules with a Federal mandate that may result in increased expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of \$165 million (\$100 million in 1995 dollars adjusted for inflation) or more in at least one year.<sup>185</sup> This statement must: (1) Identify the authorizing legislation; (2) present the estimated costs and benefits of the rule and, to the extent that such estimates are feasible and relevant, its estimated effects on the national economy; (3) summarize and evaluate state, local, and tribal government input; and (4) identify reasonable alternatives and select, or explain the non-selection, of the least costly, most cost-effective, or least burdensome alternative.

### Authorizing Legislation

This final rule is issued pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. 201–219.

### Assessment of Costs and Benefits

For purposes of UMRA, this rescission is not expected to result in increased expenditures by the private sector or by state, local, and tribal governments of \$165 million or more in at least one year. As discussed earlier, the Department believes that the rescission will not result in substantial costs for the regulated community because most courts apply a vertical joint employment analysis different from the analysis in the Joint Employer Rule and have not adopted the Rule's analysis. More detailed analysis of impacts appears above.

UMRA requires agencies to estimate the effect of a regulation on the national economy if such estimates are reasonably feasible and the effect is relevant and material.<sup>186</sup> However, OMB guidance on this requirement notes that such macroeconomic effects tend to be measurable in nationwide econometric models only if the economic effect of the regulation reaches 0.25 percent to 0.5 percent of Gross Domestic Product (GDP), or in the range of \$52.3 billion to \$104.7 billion (using 2020 GDP).<sup>187</sup> A

regulation with a smaller aggregate effect is not likely to have a measurable effect in macroeconomic terms, unless it is highly focused on a particular geographic region or economic sector, which is not the case with this rule. Given OMB's guidance, the Department has determined that a full macroeconomic analysis is not likely to show that these costs would have any measurable effect.

## VII. Executive Order 13132, Federalism

The Department has (1) reviewed this rescission in accordance with Executive Order 13132 regarding federalism and (2) determined that it does not have federalism implications. The rescission would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

## VIII. Executive Order 13175, Indian Tribal Governments

This rescission would not have substantial direct effects 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.

### List of Subjects in 29 CFR Part 791

Wages.

### PART 791—[REMOVED AND RESERVED]

■ For the reasons set forth in the preamble, and under the authority of the FLSA, 29 U.S.C. 201–219, the Department removes and reserves 29 CFR part 791.

**Jessica Looman,**

*Principal Deputy Administrator, Wage and Hour Division.*

[FR Doc. 2021–15316 Filed 7–29–21; 8:45 am]

**BILLING CODE 4510–27–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2020–0034]

RIN 1625–AA09

### Drawbridge Operation Regulation; Chicago River, Chicago, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the operating schedule that governs the Amtrak Railroad Bridge, mile 3.77, across the South Branch of the Chicago River, at Chicago, Illinois to be operated remotely and establish an intermediate opening position.

**DATES:** This rule is effective August 30, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type USCG–2020–0034 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email [Lee.D.Soule@uscg.mil](mailto:Lee.D.Soule@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
IGLD85 International Great Lakes Datum of 1985  
LWD Low Water Datum based on IGLD85  
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)  
OMB Office of Management and Budget § Section  
TD Temporary Deviation with Request for comments  
U.S.C. United States Code

#### II. Background Information and Regulatory History

On April 8, 2020 the Coast Guard published a TD in the **Federal Register** (85 FR 19659) to test the proposed rule and allow mariners to provide comments from June 1, 2020 through September 1, 2020. We received one unrelated comment.

On May 4, 2021, the Coast Guard published a NPRM in the **Federal Register** (86 FR 23639). There we stated why we issued the NPRM, and invited comments on proposed regulatory action. During the comment period that ended on June 3, 2021, we received zero (0) comments.

#### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The Amtrak Railroad Bridge, mile 3.77, over the South Branch of the Chicago River provides a vertical clearance of 10 feet in the down position and 65 feet in the open position above LWD and a horizontal clearance of 156 feet. The bridge crosses the river on a slight skew on an “S” curve in the

<sup>184</sup> See 2 U.S.C. 1501.

<sup>185</sup> Calculated using growth in the Gross Domestic Product deflator from 1995 to 2019. Bureau of Economic Analysis. Table 1.1.9. Implicit Price Deflators for Gross Domestic Product.

<sup>186</sup> See 2 U.S.C. 1532(a)(4).

<sup>187</sup> According to the Bureau of Economic Analysis, 2020 GDP was \$20.9 trillion. [https://www.bea.gov/sites/default/files/2021-04/gdp1q21\\_adv.pdf](https://www.bea.gov/sites/default/files/2021-04/gdp1q21_adv.pdf).

river requiring longer vessels to use most of the horizontal clearance for maneuvering. The South Branch of the Chicago River is part of a network of waterways that allow vessels to travel from Chicago, IL to New Orleans, LA. Cook County described the Chicago River as the 5th largest port in the United States, hosting commercial vessels over 300 tons, recreational power and sailing vessels, several passenger vessels, water taxis, paddle boats and various paddle craft. Most vessels can pass under all of the bridges in the Chicago metropolitan area without an opening, with the exception of the Amtrak Bridge. During an average weekday, 150,000 commuters travel over the Amtrak Bridge.

In accordance with general bridge regulations a drawbridge must open promptly and fully when signaled to open. Lifting the bridge to 65 feet for every vessel when most vessels only need an additional 10 feet of clearance increases the delay experienced by all modes of transportation.

The Amtrak Bridge has been operating remotely for several years without any concerns for the mariners.

#### **IV. Discussion of Comments, Changes and the Final Rule**

We received one comment to the TD that was unrelated to the bridge or proposed regulatory action. We did not receive any comments to the NPRM, and do not intend to change anything from the published NPRM.

#### **V. Discussion of Final Rule**

The Coast Guard is including in the regulations that the AMTRAK Bridge is authorized to operate remotely.

The Coast Guard is authorizing the bridge to open to an intermediate position that will provide a vertical clearance of 34 feet above LWD. A yellow light at the center of the bridge, visible to vessels approaching the bridge from both upriver and downriver sides will verify the bridge has met the intermediate height. At any time a vessel with greater air draft can radio the drawtender and request a full opening. This rule is expected to increase bridge availability to all users by 50%.

#### **VII. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

#### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still transit the bridge without changing the bridge schedule and it keeps the maximum advertised clearance available for vessels as needed.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this rule. 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.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V. A above, this rule will not have a significant economic impact on any vessel owner or operator.

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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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). 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.

#### *C. 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).

#### *D. Federalism and Indian Tribal Government*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

#### *E. 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 (adjusted for inflation) 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 this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on

the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

**G. Protest Activities**

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

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

**§ 117.391 [Amended]**

■ 2. Amend § 117.391 by revising paragraph (d) to read as follows:

**§ 117.391 Chicago River.**

(d) The Amtrak Bridge, mile 3.77, is authorized to operate remotely and open to the intermediate position on signal, unless a request for a full opening is

received by the drawtender. The bridge is required to operate a marine radio.

\* \* \* \* \*

**M.J. Johnston,**

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

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2018-0601; FRL-8689-02-R9]

**Air Plan Revision; Limited Approval and Limited Disapproval; California; Yolo-Solano Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing the limited approval and limited disapproval of a revision to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from solvent cleaning and degreasing operations. Under the authority of the Clean Air Act (CAA or the Act), this action simultaneously approves a local rule that regulates these emission sources and directs California to correct rule deficiencies.

**DATES:** This rule will be effective on August 30, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket No.

EPA-R09-OAR-2018-0601. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3024 or by email at [lazarus.arnold@epa.gov](mailto:lazarus.arnold@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

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**I. Proposed Action**

On February 25, 2021 (86 FR 11480), the EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

| Local agency | Rule # | Rule title                            | Revised    | Submitted  |
|--------------|--------|---------------------------------------|------------|------------|
| YSAQMD ..... | 2.31   | Solvent Cleaning and Degreasing ..... | 04/12/2017 | 08/09/2017 |

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because the following rule provision conflicts with section 110 and part D of the Act. The provision at section 110.6 of the rule exempts solvent degreasing operations that are subject to National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements at 40 CFR part 63 Subpart T regulating halogenated solvent cleaning.

CAA Section 182(b)(2) (“Reasonably available control technology”) states: “The State shall submit a revision to the applicable implementation plan to include provisions to require the implementation of reasonably available control technology . . . .” While the YSAQMD has been delegated the authority to enforce the requirements in 40 CFR 63 Subpart T, this type of delegation of authority to a district or state does not place those requirements or its emission limitations into the SIP. Thus, this rule fails to implement RACT for halogenated solvent cleaning in an

enforceable SIP regulation. Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

**II. Public Comments and the EPA’s Response**

The EPA’s proposed action provided a 30-day public comment period. During this period, we received one comment that was supportive of the proposed action.