

1996, Public Law 104-134, Title III, section 31001(s)(1), 110 Stat. 1321-373, and contained in sections 209(b), 502(c)(1) and 505 of ERISA, 29 U.S.C. 1059(b), 1132(c)(1) and 1135.

#### List of Subjects in CFR Part 2570

Administrative practice and procedure, Employee benefit plans, Employee Retirement Income Security Act, Pensions, Pension and Welfare Benefits Administration.

#### Proposed rule

In view of the foregoing, Part 2570 of Chapter XXV of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 2570—PROCEDURAL REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

1. The authority citation for Part 2570 is revised to read as set forth below:

**Authority:** (5 U.S.C. 8477(c)(3);) 29 U.S.C. 1108, 1135; Reorganization Plan No. 4 of 1978; Secretary of Labor Order No. 1-87.

Subpart A is also issued under 29 U.S.C. 1132(c)(1).

Subpart E is also issued under sec. 4, Pub. L. 101-410, 104 Stat. 890, (28 U.S.C. 2461 note), as amended by sec. 31001(s)(1), Pub. L. 104-134, 110 Stat. 1321-373.

2. Part 2570 is amended by adding a new Subpart E in the appropriate place to read as follows:

#### PART 2570—PROCEDURAL REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

\* \* \* \* \*

##### Subpart E—Adjustment of Civil Penalties Under ERISA Title I

§ 2570.100 In general.

§ 2570.209b-1 Adjusted civil penalty under section 209(b).

§ 2570.502c-1 Adjusted civil penalty under section 502(c)(1).

§ 2570.502c-2 Adjusted civil penalty under section 502(c)(2).

§ 2570.502c-3 Adjusted civil penalty under section 502(c)(3).

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##### Subpart E—Adjustment of Civil Penalties Under ERISA Title I

§ 2570.100 In general.

Section 3720E of the Debt Collection Improvement Act of 1996 (the Act, Pub. L. 104-134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act, Pub. L. 101-410) to require generally that the head of each federal agency adjust the civil monetary penalties subject to its jurisdiction for

inflation within 180 days after enactment of the Act and at least once every four years thereafter.

##### § 2570.209b-1 Adjusted civil penalty under section 209(b).

In accordance with the requirements of the 1990 Act, as amended, the amount of the civil monetary penalty established by section 209(b) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$10 for each employee to \$11 for each employee. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

##### § 2570.502c-1 Adjusted civil penalty under section 501(c)(1).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(1) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day to \$110 a day. This adjusted penalty applies only to violations occurring after [insert day of publication of the final rule in the Federal Register].

##### § 2570.502c-2 Adjusted civil penalty under section 502(c)(2).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1000 a day to \$1100 a day. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

##### § 2570.502c-3 Adjusted civil penalty under section 502(c)(3).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(3) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day to \$110 a day. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

Signed at Washington, DC this 11th day of April, 1997.

**Olena Berg,**

*Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD09-97-008]

RIN-2115-AE47

#### Drawbridge Operation Regulations; Grand River, MI

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the operating hours of the U.S. Route 31 highway bridge at mile 2.9 over the Grand River in Grand Haven, MI. The proposed changes would reduce the number of bridge openings for recreational vessels to relieve vehicular traffic congestion and would reduce the notice requirements for draw openings during the winter months.

The Coast Guard requests comments on the proposed revisions.

**DATES:** Comments must be received on or before July 15, 1997.

**ADDRESSES:** Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199-2060 between 6:30 a.m. and 3:00 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Bloom, Chief, Bridge Branch at (216) 902-6084.

#### SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are Mr. Scot Striffler, Project Manager, and Lieutenant Commander Kent Booher, Project Counsel, Ninth Coast Guard District.

#### Requests for Comments

The Coast Guard encourages interested persons to submit written data, or arguments for or against this rule. Persons submitting comments should include their name, address, identify this rulemaking (CGD09-97-008), the specific section of this rule to which each comment applies, and the reason(s) for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½ × 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgement of receipt of comments should enclose a stamped self-addressed post card or envelope. Persons may submit comment by writing to the Commander (obr), Ninth

Coast Guard District listed under ADDRESSES.

### Background and Purpose

In July, 1996, the city of Grand Haven, MI, requested the Coast Guard approve a temporary deviation to the regulations which govern the U.S. Route 31 highway bridge at mile 2.9 over the Grand River in Grand Haven, MI. The bridge presently opens on signal from 3 minutes before to 3 minutes after the hour and half hour between 6:03 a.m. and 9:03 p.m. The city sought to reduce bridge openings to relieve vehicular traffic congestion and still provide for the needs of navigation, particularly during rush-hour times. A trial schedule was devised and the temporary deviation was published in September, 1996. Under this schedule, the bridge was required to open on signal for recreational vessels, from 6 a.m. to 9 p.m., once an hour from 3 minutes before to 3 minutes after the half-hour; except the bridge was not required to open for the passage of recreational traffic at 7:30 a.m., 12:30 p.m., 4:30 p.m., or 5:30 p.m.

The Coast Guard received five letters with comments from the public in response. All comments were from recreational vessel operators, or their representatives, who opposed the revised schedule. The primary exception to the revised schedule involved the "blackout" periods during afternoon rush-hour when the bridge was not required to open for vessel traffic. Specifically, the 5:30 p.m. blackout time on Wednesday interfered with the scheduled activities of vessel operators.

The City of Grand Haven City Council conducted meetings on November 18, 1996, January 6, 1997, January 27, 1997, and February 10, 1997 to collect input from concerned parties and discuss alternatives to the temporary schedule used in 1996. Additionally, the cities of Ferrysburg and Spring Lake conducted similar public meetings to discuss the issue. As a result of these joint meetings, the three municipalities submitted a request to the Coast Guard on February 11, 1997 for a permanent change to the regulations and a new operating schedule.

The combined efforts of the three municipalities served on Grand River has resulted in a proposed bridge operating schedule that satisfies the needs and desires of recreational vessel operators on Grand River, relieves vehicular traffic congestion, and provides for the anticipated increase of commercial vessel traffic in the area.

From March 16 to December 14, the bridge will only be required to open for

recreational vessel traffic once an hour, on the half-hour, 7 days a week, from 6:30 a.m. to 8:30 p.m., except the bridge need not open at 7:30 a.m., 12:30 p.m., and 5:30 p.m. on Mondays, Tuesdays, Thursdays, and Fridays. On Wednesdays, the bridge need not open at 7:30 a.m., 12:30 p.m., and 4:30 p.m. This schedule will apply to recreational vessel traffic only. The bridge will open on signal for commercial vessel traffic. Additionally, in anticipation of increased commercial vessel traffic in 1997, the Coast Guard will reduce the advance notice requirement, from 24 hours to 12 hours, for vessels requesting an opening of the draw between December 15 and March 15.

### Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule was requested and drafted at the behest of three communities on Grand River and only after the aggressive solicitation of input from recreational and commercial entities in the area.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The concerns of boat operators, and the facilities that provide services to these marine users, have been conscientiously applied by the originators of this action. Furthermore, this proposed rule has been designed to balance the needs of the marine servicing industry as well as entities served along the highway route.

Therefore, the Coast Guard finds that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Any comments submitted in response to this finding will be evaluated under the criteria described earlier in the preamble for comments.

### Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, 33 CFR part 117 is proposed to be amended 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; 49 CFR 1.46; 33 CFR 1.05(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section § 117.633 is amended by revising paragraphs (b) and (c) to read as follows:

#### § 117.633 Grand River.

\* \* \* \* \*

(b) The draw of the CSX Transportation Corp. railroad bridge, mile 2.8 at Grand Haven, shall open on signal; except that, from December 15 through March 15, the draw shall open on signal if at least 12 hours notice is given.

(c) The draw of the U.S. Route 31 bridge, mile 2.9 at Grand Haven, shall open on signal for pleasure craft—

(1) From March 16 through December 14, from 6:30 a.m. to 8:30 p.m., seven days a week, once an hour, on the half-hour; except the draw need not open for pleasure craft at 7:30 a.m., 12:30 p.m.,

and 5:30 p.m. on Monday, Tuesday, Thursday, and Friday, and at 7:30 a.m., 12:30 p.m., and 4:30 p.m. on Wednesday.

(2) From December 15 through March 15, if at least 12 hours notice is given.

\* \* \* \* \*

Dated: April 9, 1997.

**G. F. Woolever**

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

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BILLING CODE 4910-14-M

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### 36 CFR Parts 1190 and 1191

#### Accessibility Guidelines for Outdoor Developed Areas

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of intent to form a regulatory negotiation committee.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) proposes to establish a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. The regulatory negotiation committee will be composed of organizations who represent the interests affected by the accessibility guidelines for outdoor developed areas. The Access Board invites comments on the proposal to establish the regulatory negotiation committee and the proposed committee membership.

**DATES:** Comments should be received by May 19, 1997.

**ADDRESSES:** Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. Fax number (202) 272-5447.

**FOR FURTHER INFORMATION CONTACT:** Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. Telephone number (202) 272-5434 extension 34 (Voice); (202) 272-5449 (TTY). This document is available in alternate formats (cassette tape, Braille,

large print, or computer disk) upon request. This document is also available on the Board's Internet site (<http://www.accessboard.gov/notices/outdoor.htm>).

**SUPPLEMENTARY INFORMATION:** The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines under the Americans with Disabilities Act and the Architectural Barriers Act to ensure that new construction and alterations of facilities covered by the laws are readily accessible to and usable by individuals with disabilities.<sup>1</sup>

In July 1993, the Access Board established a Recreation Access Advisory Committee to examine various types of recreation facilities and make recommendations for accessibility guidelines for the facilities. The Committee presented its recommendations to the Access Board in July 1994. The recommendations addressed six types of recreation facilities: sports facilities; places of amusement; play facilities; golf facilities; boating and fishing facilities; and outdoor developed areas. The Access Board published an advance notice of proposed rulemaking (ANPRM) in September 1994 inviting public comment on the Committee's recommendations. 59 FR 48542 (September 21, 1994). Comments received in response to the ANPRM generally supported the Committee's recommendations.

Based on the recommendations of the Recreation Access Advisory Committee and through comments received in response to the ANPRM, the Board has sufficient information to proceed with a

<sup>1</sup> The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The Departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; General Services Administration; and the United States Postal Service.

The Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) is a comprehensive civil rights law which prohibits discrimination on the basis of disability and requires, among other things, that newly constructed and altered State and local government facilities, places of public accommodation, and commercial facilities be readily accessible to and usable by individuals with disabilities.

The Architectural Barriers Act (42 U.S.C. 4151 *et seq.*) requires that certain federally financed facilities be readily accessible to and usable by individuals with disabilities.

proposed rule to address access to sports facilities; places of amusement; golf facilities; and boating and fishing facilities. However, the Board has identified two areas where there is a lack of consensus. These two areas are play facilities such as playgrounds and similar facilities found in schools and day care centers; and outdoor developed areas such as parks, trails, camping facilities, picnic areas, and beaches. The Board will use regulatory negotiation committees to reach consensus in both of these areas. In February 1996 the Board established a regulatory negotiation committee on access to play facilities. The Committee is expected to issue a report to the Board in July 1997.

The Board now is turning its attention to the remaining issues affecting outdoor developed areas. The Recreation Access Advisory Committee provided recommendations for accessibility requirements based upon the premise that there is a spectrum of recreation settings that occur in the outdoor environment. The recommendations identified four different environments that exist in outdoor areas. The areas include the highly developed or urban; the moderately developed or natural; the minimally developed or back-country; and the undeveloped or primitive area. To accommodate the highly, moderately, and minimally developed sites, three degrees of accessibility, (easier, moderate, and difficult) were recommended which correlate with the amount of site modification and development as well as the natural environment and rugged terrain. The Committee recommended that no requirements apply in the primitive environment.

Two alternatives were presented to determine the highest degree of accessibility. One alternative based the determination of highest degree of access on the consideration of five interrelated factors: recreation setting, condition of the natural environment, amount of structural modification, recreation experience, and consultation with people with disabilities. The other approach, defines the highest degree of access at the outset to be the easier degree for all recreation settings and environments unless it would change the fundamental nature of the activity or environment. Exceptions can then be invoked to modify the degree of access, on a requirement by requirement basis, because of severe elevations, geologic features, historic character, or the specific purpose of a trail. Documentation for the exception must include evidence that people with