

**Public Law 96-354, Regulatory Flexibility Act (5 U.S.C. 601)**

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This part will streamline personnel security clearance procedures and make the process more efficient.

**Public Law 96-511, Paperwork Reduction Act (44 U.S.C. Chapter 35)**

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

**List of Subjects in 32 CFR Part 149**

Classified information, Investigations, Security measures Accordingly; Title 32 of the Code of Federal Regulations, Chapter I, subchapter C is amended to add part 149 to read as follows:

**Part 149—Policy on Technical Surveillance Countermeasures**

- Sec.  
149.1 Policy.  
149.2 Responsibilities.  
149.3 Definitions.

**Authority:** E.O. 12968 (60 FR 40245, 3 CFR 1995 Comp., p. 391.)

**§ 149.1 Policy.**

(a) Heads of federal departments and agencies which process, discuss, and/or store classified national security information, restricted data, and sensitive but unclassified information, shall, in response to specific threat data and based on risk management principles, determine the need for Technical Surveillance Countermeasures (TSCM).

To obtain maximum effectiveness by the most economical means in the various TSCM programs, departments and agencies shall exchange technical information freely; coordinate programs; practice reciprocity; and participate in consolidated programs, when appropriate.

**§ 149.2 Responsibilities.**

(a) Heads of U.S. Government departments and agencies which plan, implement, and manage TSCM programs shall:

(1) Provide TSCM support consisting of procedures and countermeasures determined to be appropriate for the facility, consistent with risk management principles.

(2) Report to the Security Policy Board, attention: Chair, Facilities Protection Committee (FPC), for appropriate dissemination, all-source

intelligence that concerns technical surveillance threats, devices, techniques, and unreported hazards, regardless of the source or target, domestic or foreign.

(3) Train a professional cadre of personnel in TSCM techniques.

(4) Ensure that the FPC and Training and Professional Development Committee are kept apprised of their TSCM program activities as well as training and research and development requirements.

(5) Assist other departments and agencies, in accordance with federal law, with TSCM services of common concern.

(6) Coordinate, through the FPC, proposed foreign disclosure of TSCM equipment and techniques.

(b) The FPC shall advise and assist the Security Policy Board in the development and review of TSCM policy, including guidelines, procedures, and instructions. The FPC shall:

(1) Coordinate TSCM professional training, research, development, test, and evaluation programs.

(2) Promote and foster joint procurement of TSCM equipment.

(3) Evaluate the impact on the national security of foreign disclosure of TSCM equipment or techniques and recommend policy changes as needed.

(4) Develop guidance for use in obtaining intelligence information on the plans, capabilities and actions of organizations hostile to the U.S. Government concerning technical penetrations and countermeasures against them.

(5) Biennially, review, update and disseminate the national strategy for TSCM.

**§ 149.3 Definitions.**

**Classified National Security Information (CNSI).** Information that has been determined pursuant to Executive Order 12958 (60 FR 19825, 3 CFR 1995 Comp., p. 333) or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

**Restricted Data (RD).** All data concerning design, manufacture or utilization of atomic weapons; the production of special nuclear material; or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the RD category pursuant to section 102 of the Atomic Energy Act of 1954, as amended.

**Sensitive but Unclassified.** Any information, the loss, misuse, or unauthorized access to or modification

of which could adversely affect the national interest or the conduct of federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a, but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

**Technical Surveillance Countermeasures (TSCM).** Techniques and measures to detect and nullify a wide variety of technologies that are used to obtain unauthorized access to classified national security information, restricted data, and/or sensitive but unclassified information.

Dated: January 22, 1998.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD08-97-004]

RIN 2115-AE47

**Drawbridge Operation Regulations; Minnesota River**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing the 24 hour advance notice requirement from the regulation governing operation of drawbridges over the Minnesota River between the mouth and LeSueur, MN. This action is being taken to update the regulation to reflect existing conditions and to ensure the reasonable needs of navigation are met. The change will require drawbridges on that reach of the river to operate under the General Drawbridge Operating Regulation contained in 33 CFR part 117 subpart A and thus open on demand.

**DATES:** This final rule is effective March 2, 1998.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Director, Western Rivers Operations, Bridge Branch, 1222 Spruce Street, Suite 2.107f, St. Louis, Missouri, 63103-2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (314) 539-3900, extension 378.

**FOR FURTHER INFORMATION CONTACT:** Roger K. Wiebusch, Bridge

Administrator, Director, Western Rivers Operations, (314) 539-3900, extension 378.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On September 4, 1997 the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulation for the Minnesota River in the **Federal Register** (62 FR 46697). The Coast Guard received no comments on the proposed rulemaking. No public hearing was requested, and none was held.

##### Background

In the past, the low number of vessel transits that required draw openings on the Minnesota River from its mouth through LeSueur, MN did not require the draw at Savage, MN to be manned 24 hours per day. Thus, the existing regulation, 33 CFR 117.663(a), required that river traffic provide a 24 hours advance notice in the event the railroad drawbridge at Savage, MN required opening. However, in the last several years, a significant increase in river traffic on this stretch of the Minnesota River, combined with the increased importance of that traffic's cargoes, has resulted in the need to open this draw on demand. In order to accommodate this increase in river traffic—and to better facilitate commerce—the Coast Guard organized a meeting between waterway users and the owners of the only affected drawbridge at Savage, MN, Mile 14.3 on the Minnesota River. This meeting resulted in an agreement between the waterway users and the bridge owners to eliminate the 24-hour advance-notice-opening requirement and institute an open-on-demand policy for the Savage, MN railroad bridge. Thus, the requirement in 33 CFR 117.663(a), that river traffic shall provide a 24 hours advance notice before the draw will be opened, is no longer applicable and requires deletion. All bridges at and below LeSueur, MN will now operate under the general bridge requirements found in 33 CFR Part 117 Subpart A. That is, the draws will open upon demand.

As previously mentioned, the only bridge that will be affected by this proposed rulemaking is the railroad drawbridge at Savage, MN. The regulation maintains the existing language in the second paragraph of 33 CFR 117.663 stating that the draws of bridges above LeSueur, MN need not be opened for the passage of vessels.

##### Discussion of Comments and Changes

No comments were received during the comment period for the Notice of

Proposed Rulemaking. Removing the 24-hour-advance-notice requirement in 33 CFR 117.663(a) requires all drawbridges located downstream of LeSueur, MN on the Minnesota River to open upon demand for passage of river traffic as required by the General Drawbridge Operating Regulation, 33 CFR Part 117 Subpart A. The only bridge affected is the railroad drawbridge at Savage, MN.

##### Regulatory Evaluation

This rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The rule affects one drawbridge and is not expected to significantly alter the day-to-day activities of any businesses. This evaluation is supported by the fact that the Coast Guard did not receive any comments on the expense of implementing the regulation. Moreover, since this change reflects existing operating conditions at the Savage, MN railroad drawbridge there are no impacts and additional costs associated with this rulemaking.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this change has significant economic impact on the substantial number of small entities. Small entities include (1) small businesses, 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. Specifically, since this rule only affects one drawbridge and the owners of that draw have already implemented an open-on-demand policy the Coast Guard expects the impact of this change to be minimal. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this change will not have a significant economic impact on a substantial number of small entities.

##### Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity, and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Director, Western Rivers Operations, (314) 539-3900 extension 378.

##### Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (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 implications for federalism to warrant the preparation of a Federalism Agreement.

##### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2(e)(32)(e) of the NEPA Implementing Procedures, COMDTINST M16475.1B, this change is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have significant effect on the human environment. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under ADDRESSES.

##### List of Subjects

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

1. The authority citation for 33 CFR part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.663 is revised to read as follows:

##### § 117.663 Minnesota River.

The draws of bridges above LeSueur need not be opened for the passage of vessels.

Dated: January 20, 1998.

**T.W. Josiah,**

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

[FR Doc. 98-2300 Filed 1-29-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-300604; FRL-5766-5]  
RIN 2070-AB78

### Carboxin; Extension of Tolerance for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This rule extends a time-limited tolerance for residues of the fungicide carboxin and its metabolites in or on onion seed at 0.2 parts per million (ppm) for an additional 1-year period, to January 31, 1999. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on onion seed. Additionally, this rule changes the commodity expression for the tolerance from "onion seed" to "onions, dry bulb." Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation becomes effective January 30, 1998. Objections and requests for hearings must be received by EPA, on or before March 31, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300604], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300604], must also be submitted to: Public Information and Records

Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

**FOR FURTHER INFORMATION CONTACT:** By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 267, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-9362; e-mail: schaible.stephen@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of February 3, 1997 (62 FR 4911) (FRL-5584-5), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of carboxin and its metabolites in or on onion seed at 0.2 ppm, with an expiration date of January 17, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of carboxin on onion seed for this year's growing season due to the urgent and non-routine situation resulting from a lack of effective registered pesticides or alternative practices to control onion smut in northern onion producing States. After having reviewed the submission, EPA concurs that emergency conditions exist for these States. EPA has authorized under FIFRA section 18 the use of carboxin on onion seed for control of onion smut in onions, dry bulb.

EPA assessed the potential risks presented by residues of carboxin in or

on onions, dry bulb. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of February 3, 1997 (62 FR 4911). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. Although this tolerance will expire and is revoked on January 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on onions, dry bulb after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

### I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by March 31, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is