

criteria contained in Executive Order 13132, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Accordingly, a Federalism Assessment has not been prepared.

#### List of Subjects in 23 CFR Part 1275

Alcohol and alcoholic beverages, Grant programs—transportation, Highway safety.

In consideration of the foregoing, the interim final rule published in the **Federal Register** of October 19, 1998, 63 FR 55796, is adopted as final, with the following changes:

#### PART 1275—REPEAT INTOXICATED DRIVER LAWS

1. The authority citation for part 1275 continues to read as follows:

**Authority:** 23 U.S.C. 164; delegation of authority at 49 CFR 1.48 and 1.50.

2. Section 1275.3 is amended by revising paragraphs (c) and (k) to read as follows:

##### § 1275.3 Definitions.

\* \* \* \* \*

(c) *Driving while intoxicated* means driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State, or an equivalent non-BAC intoxicated driving offense.

\* \* \* \* \*

(k) *Repeat intoxicated driver* means a person who has been convicted of driving while intoxicated or driving under the influence of alcohol more than once in any five-year period.

\* \* \* \* \*

3. In § 1275.4, paragraph (b)(2) is redesignated as paragraph (b)(3) and a new paragraph (b)(2) is added to read as follows:

##### § 1275.4 Compliance criteria.

\* \* \* \* \*

(b) \* \* \*

(2) A State may provide limited exceptions to the requirement to install an ignition interlock system on each of the offender's motor vehicles, contained in paragraph (a)(2)(iii) of this section, on an individual basis, to avoid undue financial hardship, provided the State law requires that the offender may not operate a motor vehicle without an ignition interlock system.

\* \* \* \* \*

4. Section 1275.5 is amended by revising paragraph (b) to read as follows:

##### § 1275.5 Certification requirements.

\* \* \* \* \*

(b) The certification shall be made by an appropriate State official, and it shall provide that the State has enacted and is enforcing a repeat intoxicated driver law that conforms to 23 U.S.C. 164 and § 1275.4 of this part.

(1) If the State's repeat intoxicated driver law is currently in effect and is being enforced, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of \_\_\_\_\_, do hereby certify that the (State or Commonwealth) of \_\_\_\_\_, has enacted and is enforcing a repeat intoxicated driver law that conforms to the requirements of 23 U.S.C. 164 and 23 CFR 1275.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as needed).

(2) If the State's repeat intoxicated driver law is not currently in effect, but will become effective and be enforced by October 1 of the following fiscal year, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of \_\_\_\_\_, do hereby certify that the (State or Commonwealth) of \_\_\_\_\_, has enacted a repeat intoxicated driver law that conforms to the requirements of 23 U.S.C. 164 and 23 CFR 1275.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as needed), and will become effective and be enforced as of (effective date of the law).

\* \* \* \* \*

5. Section 1275.6 is amended by adding paragraph (c) to read as follows:

##### § 1275.6 Transfer of funds.

\* \* \* \* \*

(c) On October 1, the transfers to section 402 apportionments will be made based on proportionate amounts from each of the apportionments under 23 U.S.C. 104(b)(1), (b)(3) and (b)(4). Then the States will be given until October 30 to notify FHWA, through the appropriate Division Administrator, if they would like to change the distribution among 23 U.S.C. 104(b)(1), (b)(3) and (b)(4).

6. Section 1275.7 is amended by redesignating paragraphs (c) through (f) as paragraphs (d) through (g), and by adding a new paragraph (c) to read as follows:

##### § 1275.7 Use of transferred funds.

\* \* \* \* \*

(c) The Governor's Representative for Highway Safety and the Secretary of the State's Department of Transportation for each State shall jointly identify, in writing to the appropriate NHTSA Administrator and FHWA Division

Administrator, how the funds will be programmed among alcohol-impaired driving programs, hazard elimination programs, and planning and administration costs, no later than 60 days after the funds are transferred.

\* \* \* \* \*

Issued on: September 28, 2000.

**Kenneth R. Wykle,**

*Administrator, Federal Highway Administration.*

**Dr. Sue Bailey,**

*Administrator, National Highway Traffic Safety Administration.*

[FR Doc. 00-25384 Filed 9-29-00; 3:34 pm]

**BILLING CODE 4910-59-P**

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 66

[USCG 2000-7466]

RIN 2115-AF98

##### Allowing Alternatives to Incandescent Light in Private Aids to Navigation

**AGENCY:** Coast Guard, DOT.

**ACTION:** Direct final rule.

**SUMMARY:** The Coast Guard is removing the requirement to use only tungsten-incandescent lighting for private aids to navigation. It will enable private industry and owners of private aids to navigation to take advantage of recent changes in lighting technology—specifically to use lanterns based on light-emitting diodes (LEDs). The greater flexibility will reduce the consumption of power and simplify the maintenance of private aids to navigation.

**DATES:** This direct final rule is effective January 3, 2001, unless a written adverse comment, or written notice of intent to submit one, reaches the Docket Management Facility on or before December 4, 2000. If an adverse comment, or notice of intent to submit one, does reach the Facility on or before then, the Coast Guard will withdraw this rule and publish a timely notice of withdrawal in the **Federal Register**.

**ADDRESSES:** You may mail your comments or notices of intent to submit them to the Docket Management Facility [USCG 2000-7466], U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington DC 20590-0001, or deliver them to room PL-401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this direct final rule, call Dan Andrusiak, G-OPN-2, Coast Guard, telephone 202-267-0327. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief of Dockets, Department of Transportation, telephone 202-366-9329.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [USCG 2000-7466] and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

##### **Regulatory Information**

The Coast Guard is publishing a direct final rule, the procedures for which appear in 33 CFR 1.05-55, because it anticipates no adverse comment. If no adverse comment or written notice of intent to submit one reaches the Docket Management Facility within the comment period specified in DATES, this rule will become effective as indicated. In that case, about 30 days before the effective date, the Coast Guard will publish a document in the **Federal Register** indicating that it received no adverse comment or written notice of intent to submit one and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives a written adverse comment or written notice of intent to submit one, it will publish a document in the **Federal Register** announcing withdrawal of all or part of this rule (e.g., an amendment, a paragraph, or a section). If an adverse comment applies

to only part of this rule and if removal of that part is possible without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule unaffected by the comment and withdraw the others. If the Coast Guard decides to proceed with a rulemaking following receipt of an adverse comment, it will publish a separate Notice of Proposed Rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered "adverse" if it explains why this rule would be inappropriate; including a challenge to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change.

##### **Background and Purpose**

The Marine Safety Council of the Coast Guard recommended this rulemaking. The intent of the rule is to reduce the consumption of power and simplify the maintenance of private aids to navigation by allowing for the use of lanterns based on LEDs as well as on tungsten-incandescent lights.

##### **Discussion of Rule**

The Coast Guard will allow private industry and owners of private aids to navigation to take advantage of recent changes in lighting technology—specifically the use of lanterns based on LEDs.

##### **Regulatory Evaluation**

This direct final 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is not necessary.

##### **Cost of Rule**

This direct final rule would not impose any costs on the public. While it permits the use of lanterns based on LEDs as well as tungsten-incandescent lights, it does not require it.

Manufacturers of tungsten-incandescent lights also provide LED lights. This rule would not impose any costs on these manufacturers; it would instead expand a market for the LED lights they are already manufacturing.

##### **Small Entities**

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard considered whether this direct final rule would have a significant economic impact on a substantial number of small entities. "Small entities" include 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 Small Business Administration (SBA) has set up size standards for each SIC code based on the number of employees or annual receipts. The only type of small entity that this rule would affect would be small businesses.

The Coast Guard performed a survey of the industry, and discovered that there are currently two major U.S. manufacturers of tungsten-incandescent lights used for aids to navigation. One of them is considered small by the size standards set up by the SBA. However, the impact of this rule would be positive because it would open new markets for other small business manufacturers who currently possess LED technology.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. It will evaluate comments submitted in response to this finding under the criteria in *Regulatory Information*.

##### **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 direct final rule so that they can better evaluate its effect 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 Dan Andrusiak, G-OPN-2, Coast Guard, telephone 202-267-0327.

##### **Collection of Information**

This direct final rule would call for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501-3520].

##### **Federalism**

The Coast Guard has analyzed this direct final 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 Assessment.

**Environment**

The Coast Guard considered the environmental impact of this direct final rule and concluded that, under figure 2-1, paragraph (34)(i) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Determination of Categorical Exclusion is available in the docket for inspection or copying where indicated under ADDRESSES.

**List of Subjects in 33 CFR Part 66**

Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 66 as follows:

1. The citation of authority continues to read as follows:

**Authority:** 14 U.S.C. 83, 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Section 66.01-10 is revised to read as follows:

**§ 66.01-10 Characteristics.**

The characteristics of a private aid to navigation must conform to the United States Aids to Navigation System described in subpart B of Part 62 of this subchapter, except that the Coast Guard will approve both tungsten-incandescent lights and light-emitting diodes (LEDs) with a flash length of at least 0.2 seconds, as sources of light for electric lanterns.

Dated: September 26 2000.

**Kenneth T. Venuto,**

*U.S. Coast Guard, Acting Assistant Commandant for Operations.*

[FR Doc. 00-25484 Filed 10-3-00; 8:45 am]

BILLING CODE 4910-15-P

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

[GGD07-00-092]

**Drawbridge Operation Regulations; CSX Railroad Bridge (South Fork of the New River), Ft. Lauderdale, Broward County, FL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the CSX Railroad Drawbridge across the South Fork of the New River, mile 2.8, Ft. Lauderdale, Broward County, Florida. This deviation allows the

drawbridge owner not to open for vessel traffic. This temporary deviation is required October 7, 2000 from 6:00 a.m. until 12:00 p.m., to allow the bridge owner to safely complete repairs to the drawbridge.

**DATES:** This deviation is effective on October 7, 2000, from 6:00 a.m. until 12:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415-6743.

**SUPPLEMENTARY INFORMATION:** The CSX Railroad Drawbridge across the South Fork of the New River at Ft. Lauderdale, has a vertical clearance of 2 feet above mean high water (MHW) measured at the fenders in the closed position. On July 11, 2000 the owner, requested a deviation from the current operating regulation in 33 CFR 117.5 which requires the drawbridge to open promptly and fully when a request to open is given. This temporary deviation was requested to allow necessary repairs to the drawbridge in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 for the purpose of repair completion of the drawbridge. Under this deviation, the CSX Railroad Drawbridge (South Fork of the New River) need not open. The deviation is effective on October 7, 2000 from 6:00 a.m. until 11:59 p.m.

Dated: September 22, 2000.

**G.E. Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

[FR Doc. 00-25486 Filed 10-3-00; 8:45 am]

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

[CGD07-00-097]

**Drawbridge Operation Regulations; Florida East Coast Railway Bridge, across the Okeechobee Waterway, mile 7.4, at Stuart, Martin County, FL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulation.

**SUMMARY:** The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Florida East Coast Railway bridge across the Okeechobee Waterway, mile

7.4, Stuart, Martin County, Florida. This deviation allows the drawbridge owner or operator to not open the bridge for short periods of time, approximately 30 to 45 minutes in duration, from 7:00 until 4:00 pm from October 9, 2000 through October 12, 2000. This temporary deviation is required from October 9, 2000 until October 12, 2000, to allow the bridge owner to safely complete repairs of the bridge.

**DATES:** This deviation is effective from October 9, 2000 to October 12, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415-6743.

**SUPPLEMENTARY INFORMATION:** The Florida East Coast Railway drawbridge across the Okeechobee Waterway at Stuart, has a vertical clearance of 7 feet above mean high water (MHW) measured at the fenders in the closed position and during construction will have a horizontal clearance of 50 feet. On September 8, 2000, Florida East Coast Railway, the drawbridge owner, requested a deviation from the current operating regulation in 33 CFR 117.5 which requires drawbridge to open promptly and fully when a request to open is given. This temporary deviation was requested to allow necessary repairs to the drawbridge in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.35 for the purpose of repair completion of the drawbridge. Under this deviation, the Florida East Coast Railway Bridge need not open the bridge for short periods of time, approximately 30 to 45 minutes in duration. The deviation is effective for a period of 4 days beginning on October 9, 2000 and ending on October 12, 2000.

Dated: September 22, 2000.

**Greg E. Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

[FR Doc. 00-25485 Filed 10-3-00; 8:45 am]

BILLING CODE 4910-15-M