Washington, DC 20207–0001; telephone (301)504–0400, ext. 1368.

Accordingly, the Consumer Product Safety Commission amends 16 CFR 1210.12(b)(3) to read as follows:

§ 1210.12 Certificate of compliance.

* * * * *

(b) *Certificate of compliance.* * * *

(3) The date(s) of manufacture and, if different from the address in paragraph (b)(2) of this section, the address of the place of manufacture.

Dated: December 23, 1994.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 94–32104 Filed 12–29–94; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 95–2]

User Fee Airports

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the establishment of eight additional user fee airports. User fee airports are those which, while not qualifying for designation as an international or landing rights airport, have been approved by the Commissioner of Customs to receive the services of Customs officers for the processing of aircraft entering the U. S. and their passengers and cargo.

EFFECTIVE DATE: December 30, 1994.

FOR FURTHER INFORMATION CONTACT: Peg Fearon, Office of Inspection and Control, 202–927–1413.

SUPPLEMENTARY INFORMATION:

Background

Part 122, Customs Regulations (19 CFR Part 122), sets forth regulations that are applicable to all international air commerce relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft.

Under § 1109(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States, and for merchandise carried on the aircraft. These airports are referred to as international airports, and the location and name of each are listed in § 122.13, Customs Regulations (19 CFR 122.13). In accordance with § 122.33, Customs Regulations (19 CFR 122.33), the first landing of every civil aircraft entering the United States from a foreign area must be at one of these international airports, unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of merchandise, collect duties and enforce the customs laws and regulations.

Other than if making an emergency or forced landing, if a civil aircraft desires to land at an airport not designated by Customs as an international airport, the pilot may request permission to land at a specific airport and, if granted, Customs assigns personnel to that airport for the aircraft. The airport where the aircraft is permitted to land is called a landing rights airport (19 CFR 122.24).

Section 236 of Pub. L. 98–573 (the Trade and Tariff Act of 1984), codified at 19 United States Code 58b (19 U.S.C. 58b), creates an option for civil aircraft desiring to land at an airport other than an international or landing rights airport. A civil aircraft arriving from a place outside the United States may ask Customs for permission to land at an airport designated by the Secretary of the Treasury as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of Customs business at the airport is insufficient to justify the availability of Customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of airport that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

Inasmuch as the volume of business anticipated at these airports is insufficient to justify their designation as an international or landing rights airport, the availability of Customs services is not paid for out of the Customs appropriations from the general treasury of the United States. Instead, the services of Customs officers are provided on a fully reimbursable basis to be paid for by the user fee airports on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the Customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing Customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary of the Treasury to provide the Customs services. To implement this provision, generally the airport seeking the designation as a user fee airport or that airport's authority agrees to pay Customs a flat fee annually and the users of the airport are to reimburse that airport/airport authority. The airport/airport authority agrees to set and periodically to review its charges to ensure that they are in accord with the airport's expenses.

Pursuant to Treasury Department Order No. 165, Revised (Treasury Decision 53564), all the rights, privileges, powers and duties vested in the Secretary of the Treasury by the Tariff Act of 1930, as amended, by the navigation laws, or by any other laws administered by Customs, are transferred to the Commissioner of Customs. Accordingly, the authority granted to the Secretary of the Treasury to designate user fee airports and to determine appropriate fees is delegated to the Commissioner of Customs.

Under this authority, Customs has determined that certain conditions must be met before an airport can be designated as a user fee airport. At least one full-time Customs officer must be requested, and the airport must be responsible for providing Customs with satisfactory office space, equipment and supplies, at no cost to the Federal Government.

Nineteen airports are currently listed in § 122.15, Customs Regulations, as user fee airports designated by the Commissioner. This document adds eight more airports to the listing of designated user fee airports. These airports and phone numbers at which they can be contacted regarding service are as follows:

Airport	Contact
Daytona Beach Regional Airport, Daytona Beach, Florida	Volusia County Council, (904) 255–8441
Willow Run Airport, Ypsilanti, Michigan	Airport Authority, (312) 482–9660.

Airport	Contact
Sarasota-Bradenton Airport, Sarasota, Florida	Airport Authority, (813) 359–5200.
Melbourne Regional Airport, Melbourne, Florida	Director of Aviation, (407) 723–6227
Tri-City Regional Airport, Blountville, Tennessee	Airport Commission, (615) 323–6287
Addison Airport of Texas, Inc., Dallas, Texas	President, (214) 248–7733.
Pal-Waukee Municipal Airport, Wheeling, Illinois	Priester Aviation, (708) 537–1200.
Medford-Jackson County Airport, Medford, Oregon	Airport Director, (503) 776–7222.

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), do not apply. Agency organization matters such as this amendment are exempt from consideration under Executive Order 12866.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely lists those user fee airports designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b and neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(2), a delayed effective date is not required.

Drafting information: The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Rulings, U. S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs Duties and inspection, Freight.

Amendments to the Regulations

Part 122, Customs Regulations (19 CFR Part 122), is amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for Part 122, Customs Regulations, continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1623, 1624, 1644; 49 U.S.C. App. 1509.

2. Section 122.15(b) is amended by revising the list of airports to read as follows:

§ 122.15 User fee airports.

* * * * *

(b) *List of user fee airports.* * * *

Location	Name
Blountville, Tennessee.	Tri-City Regional Airport.
Casper, Wyoming.	Natrona County International Airport.
Columbus, Ohio.	Rickenbacker Airport.
Dallas, Texas .	Addison Airport of Texas, Inc.
Daytona Beach, Florida.	Daytona Beach Regional Airport.
Fargo, North Dakota.	Hector International Airport.
Fort Myers, Florida.	Southwest Florida Regional Airport.
Fort Wayne, Indiana.	Fort Wayne-Allen County Airport.
Fort Worth, Texas.	Alliance Airport.
Klamath Falls, Oregon.	Kingsley Field.
Lebanon, New Hampshire.	Lebanon Municipal Airport.
Lexington, Kentucky.	Bluegrass Airport.
Medford, Oregon.	Medford-Jackson County Airport.
Melbourne, Florida.	Melbourne Regional Airport.
Midland, Texas.	Midland International Airport.
Morristown, New Jersey.	Morristown Municipal Airport.
Moses Lake, Washington.	Grant County Airport.
Oakland, Michigan.	Oakland-Pontiac Airport.
Rockford, Illinois.	Greater Rockford Airport.
Sanford, Florida.	Sanford Regional Airport.
Sarasota, Florida.	Sarasota-Bradenton Airport.
St. Paul, Alaska.	St. Paul Airport.
Waukegan, Illinois.	Waukegan Regional Airport.
Wheeling, Illinois.	Pal-Waukee Municipal Airport.
Wilmington, Ohio.	Airbourne Air Park.
Yakima, Washington.	Yakima Air Terminal.
Ypsilanti, Michigan.	Willow Run Airport.

* * * * *

Approved: December 13, 1994.

William F. Riley,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury

[FR Doc. 94-32196 Filed 12-29-94; 8:45 am]

BILLING CODE 4820-02-P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Procedures for Investigations and Related Proceedings Concerning Unfair Practices in Import Trade

AGENCY: U.S. International Trade Commission.

ACTION: Interim rules and request for comment.

SUMMARY: The Commission is amending certain rules of practice and procedure to implement amendments to section 337 of the Tariff Act of 1930 enacted by Congress as part of the Uruguay Round Agreements Act. By implementing the law, the rules bring U.S. procedures into conformity with national treatment obligations under GATT, while providing for the effective enforcement of intellectual property rights at the border.

DATES: The effective date of the interim rules is January 1, 1995, the date on which the World Trade Organization (WTO) Agreement enters into force with respect to the United States, unless the United States Trade Representative announces prior to that date that the WTO Agreement will not enter into force on that date. Should the effective date not be January 1, 1995, the Commission will publish notice to such effect in the **Federal Register**.

These interim rules apply to section 337 complaints filed on or after the effective date.

Comments on these interim rules will be considered if received by March 30, 1995.

ADDRESSES: A signed original and 14 copies of each set of comments, along with a cover letter addressed to Donna R. Koehnke, Secretary, should be sent to the U.S. International Trade Commission, Office of the Secretary, room 112, 500 E Street SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Paul A. Newhouse, Esq., Office of the Administrative Law Judges, U.S. International Trade Commission, telephone 202–205–2699. Hearing-impaired individuals can obtain information on the final rules by contacting the Commission's TDD terminal at 202–205–1810.

SUPPLEMENTARY INFORMATION:

Background

In 1989, the General Agreement on Tariffs and Trade (GATT) adopted a report finding that USITC procedures in investigations under section 337 of the Tariff Act of 1930 violated GATT "national treatment" rules. The report listed several ways in which imported goods are treated less favorably in Commission investigations than domestic goods are treated in district court infringement cases. In the Uruguay Round Agreements Act, Congress amended section 337 to bring USITC procedures into compliance with the GATT "national treatment" rules. See H. Rep. No. 103–826, 103d Cong., 2d Sess. 140–142 (1994). The amendments, and the interim rule revisions that follow, focus on changes in four areas that respond to GATT criticisms:

time limits for concluding an investigation have been eliminated and a procedure for establishing a "target date" for completion has been adopted instead;

respondents are given the opportunity to stay parallel actions in district court while a Commission investigation is proceeding; the Commission's record may be used subsequently in the district court;

limitations are placed on the Commission's ability to issue "general" exclusion orders; and

respondents are permitted to file counterclaims at the Commission; these claims will be heard by a district court, but the same subject matter may be considered as part of an affirmative defense at the Commission.

Other amendments bring Commission practice into closer conformity with district court practice with respect to bonding requirements and the deference accorded to arbitration agreements.

The Procedure for Adopting Interim Rules

The URAA was enacted on December 8, 1994. This legislation contains provisions which, *inter alia*, amend section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission's rules concerning Section 337 practice and procedure need to be amended to conform to the new legislation.

Commission rules to implement new legislation ordinarily are promulgated in accordance with the rulemaking provisions of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*), which entails the following steps: (1) Publication of a notice of proposed rulemaking; (2) solicitation of public comment on the proposed rules; (3) Commission review of such comments prior to developing final rules; and (4) publication of the final rules thirty days prior to their effective date. See 5 U.S.C. 553. That procedure could not be utilized in this instance because the new legislation was enacted on December 8, 1994, and will become effective, with respect to the amendments to section 337 of the Act, on January 1, 1995, the date on which the WTO Agreement enters into force with respect to the United States, unless the United States Trade Representative announces prior to that date that the WTO Agreement will not enter into force on that date. These interim rules apply to section 337 complaints filed on or after the effective date. It was consequently not possible to complete the section 553 rulemaking procedure prior to the effective date of the new legislation.

The Commission thus determined to adopt interim rules that will go into effect when the provisions of the URAA amending section 337 become effective and will remain in effect until the Commission can adopt final rules promulgated in accordance with the usual notice, comment, and advance publication procedure.

The Commission's authority to adopt interim rules without following all steps listed in section 553 of the APA is derived from three sources: (1) Section 335 of the Act (19 U.S.C. 1335); (2) section 103 of the URAA and the Statement of Administrative Action approved by the URAA; and (3) provisions of section 553 of the APA which allow an agency to dispense with various steps in the prescribed rulemaking procedure under certain circumstances.

Section 335 of the Act authorizes the Commission "to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties." 19 U.S.C. 1335. Similarly, section 103(a) of the URAA authorizes federal agencies to "issue such regulations as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date [of] any of the Uruguay Round Agreements entered into force with respect to the United States is appropriately implemented on such date," and section 103(b) of the URAA directs that "[a]ny interim regulations necessary or appropriate to carry out any action proposed in the statement of administrative action approved under section 101 [of the URAA] to implement an agreement described in section 101(d) (7), (12), or (13) [of the URAA] be issued not later than 1 year after the date on which the agreement enters into force with respect to the United States."

The Commission determined that the need for interim rules is clear in this instance. The Commission noted that the new legislation alters section 337 practice and procedure and that the existing Commission rules do not encompass certain procedures required by the new legislation. The Commission found that rulemaking was essential for the orderly administration of section 337 as amended by the new legislation. Furthermore, since the legislation was to become effective very shortly after enactment, the Commission concluded that it was imperative that implementing rules be in place on the effective date of the new statute.

The Commission noted that an agency may dispense with publication of a notice of proposed rulemaking when the following circumstances exist: (1) The proposed rules are interpretive rules, general statements of policy, or rules of agency organization, procedure or practice; or (2) the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and that finding (and the reasons therefor) are incorporated into the rules adopted by the agency. 5 U.S.C. 553(b). An agency may also dispense with the publication of a notice of final rules thirty days prior to their effective date if (1) the rules are interpretive rules of statements of policy or (2) the agency finds that "good cause" exists for not meeting the advance publication requirement and that finding is published along with the rule 5 U.S.C. 553(d)(3).

In this instance, the Commission determined that the requisite circumstances existed for dispensing with the notice, comment, and advance publication procedure that ordinarily precedes the adoption of Commission rules. For purposes of invoking the section 553(b) exemption from publishing a notice of proposed rulemaking which solicits public comment, the Commission found that (1) the interim rules are "agency rules of procedure or practice"; and (2) since the new legislation is projected to become effective very shortly after enactment, and the time or fact of enactment could not be predicted in advance, it clearly would be "impracticable" for the Commission to comply with the usual notice, comment, and advance publication procedure. For the purpose of invoking the section 553(d)(3) exemption from publishing advance notice of the interim rules thirty days prior to their effective date, the Commission found that the fact that the new legislation is expected to become effective very shortly after enactment made such advance publication impossible and constituted "good cause" for the Commission not to comply with that requirement.

The Commission recognizes that interim regulations should not respond to anything more than the exigencies created by the new legislation. Having been promulgated in response to exigencies created by the new legislation, each interim rule accordingly comes under one or more of the following categories: (1) Revision of a pre-existing rule that conflicted with the new legislation; (2) a technical amendment to make a pre-existing rule conform to the language of the new legislation; (3) rewording of a pre-existing rule to avoid confusion about how the rule is to be applied in light of the new legislation; or (4) a new rule covering a matter provided for in the new legislation but not covered by a pre-existing rule. More comprehensive final rules will be issued at a later date in accordance with the usual notice, public comment, and advance publication procedure.

Because the interim regulations merely respond to exigencies created by the new legislation, the Commission has further determined that they do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993), and thus do not constitute a significant regulatory action for purposes of the EO. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 note), the Commission hereby certifies pursuant to 5 U.S.C. 605(b) that the rules set forth in this notice are not likely to have a significant impact on a substantial number of small business entities. In any event, the Regulatory Flexibility Act is inapplicable to this rulemaking because it is not one in which a notice of proposed rulemaking is required under 5 U.S.C. 553(b).

Section-By-Section Analysis of the Interim Rules

Subpart A—Rules of General Applicability

Section 210.3

The definition of "investigation" is revised to eliminate a reference to designating the permanent relief phase of an investigation "more complicated." See discussion of § 210.22 below.

Section 210.4

Paragraph (d)(2)(iii)(B) has been revised to indicate that a termination based on an arbitration agreement joins terminations based on settlement agreements and consent order agreements in a category of cases in which monetary sanctions may be imposed on the initiative of the administrative law judge or the Commission.

Section 210.5

Paragraph (b) is revised to conform to amended 19 U.S.C. 1337(n)(2), which clarifies the list of government officers and employees who may have access to confidential business information.

A new paragraph (c) is added to alert the reader to the possibility that confidential business information may be transmitted to a federal district court, subject to such protective order as the district court determines necessary. This result might occur in a limited class of cases because of newly-enacted 28 U.S.C. 1659. Past Commission practice has been to permit the transfer of confidential business information to another court only with permission of the supplier of the information. Particularly where the supplier is a third party who is involved in neither the Commission investigation nor the district court case, it is important that the supplier be made aware that treatment of confidential information would be governed by the district court's protective order and not that of the Commission following transmittal of the record under this provision. It is expected that future protective orders will refer to this rule and the similar provision in § 210.39(b) to assure that all suppliers of confidential business information are aware of this possibility.

The remaining two paragraphs of this section are redesignated (d) and (e).

Subpart C—Pleadings

Section 210.14

A new paragraph (e) is added to implement the amendment to 19 U.S.C. 1337(c) with regard to counterclaims. The rule requires that counterclaims be filed not later than ten business days before the commencement of the evidentiary hearing. This requirement should provide a respondent adequate discovery time to identify potential counterclaims while avoiding the distraction that might occur if counterclaims could be filed during (or after) the evidentiary hearing. For reasons of clarity, the rule requires counterclaims to be filed in a separate document.

The statutory amendment makes clear that the new procedures with respect to counterclaims do not affect the ability of a respondent to present all legal or equitable defenses that may be available to it in a section 337 investigation. Action on the counterclaim will not delay or affect the Commission's proceeding. The Commission is not precluded from considering judicial rulings on counterclaims as part of the Commission's consideration of the effect of a remedial order on the public interest. See H.R. Rep. No. 103–826, 103d Cong., 2d Sess. 141 (1994).

Subpart D—Motions

Section 210.16

Paragraph (c)(2) is revised to include by reference the requirements added to § 210.50(c) below with regard to criteria that must be considered by the Commission before issuing a general exclusion order.

Section 210.21

A new paragraph (d) is added to implement the amendment to 19 U.S.C. 1337(c) that permits the Commission to terminate an investigation on the basis of an agreement between the private parties to present the matter for arbitration, as well as the traditional settlement agreement. The procedures to be followed with respect to a motion to terminate on the basis of an arbitration agreement are similar to those pertaining to settlement agreements under paragraph (b) of this section.

Paragraph (a)(2) is revised to include a reference to the new paragraph (d), and the previous paragraph (d) is redesignated (e).

Section 210.22

Amendments to 19 U.S.C. 1337(b) eliminated time limits for concluding the permanent relief phase of an investigation under section 337. The provision for a "more complicated" designation resulting in an 18-month deadline was eliminated. Instead, the Commission is directed to establish a "target date" in each investigation. The procedure for establishing a target date is discussed with respect to § 210.51 below.

This section is amended by deleting paragraph (b) with respect to a "more complicated" designation of the permanent relief phase of an investigation. The previous paragraph (c) is redesignated (b) and is otherwise unchanged. This paragraph deals with declaring the temporary relief phase of an investigation "more complicated," a procedure that was unchanged by the statutory amendments

Section 210.23

This section is revised to reflect amendments to 19 U.S.C. 1337(b)(1), which eliminate the authority of the Commission to suspend an investigation "because of proceedings in a court or agency of the United States involving similar questions concerning the subject matter" of the investigation. The Commission retains the authority to suspend an investigation pending review by the Department of Commerce of possible antidumping or countervailing duty matters referred to the Department of Commerce by the Commission pursuant to 19 U.S.C. 1337(b)(3), and the rule is revised to reflect this retained authority.

The need for an investigation to be suspended no longer exists insofar as the statutory deadline for concluding the permanent relief phase has been eliminated. Circumstances that would have warranted suspension under the old rules may warrant an extension of the target date for completing the investigation under these amendments. With respect to the temporary relief phase of an investigation, however, the elimination of authority to suspend is significant, because the strict statutory deadlines for deciding petitions for temporary relief have been retained. Temporary relief proceedings now must proceed to completion regardless of concurrent parallel proceedings in other courts or agencies (except for the rare proceeding at the Department of Commerce, referred to in the preceding paragraph). If a complainant pursues a motion for temporary relief under circumstances that would have resulted in suspension under the Commission's prior practice, there may be a basis for requiring a more substantial bond from the complainant before temporary relief is ordered.

Section 210.24

Paragraph (a)(2) is deleted because "more complicated" designations have been eliminated with respect to permanent relief. Paragraph (a)(3) is redesignated (a)(2).

Paragraph (b)(2) is revised to reflect the renumbering of the paragraphs in § 210.5.

Subpart F—Prehearing Conferences and Hearings

Section 210.39

A new paragraph (b) is added and the succeeding paragraphs are redesignated. The addition outlines the circumstances in which the Commission's record, including the in camera record, may be transmitted to a federal district court, subject to such protective order as the district court determines necessary. As in § 210.5, discussed above, this rule alerts the reader that treatment of confidential business information would be governed by the district court's protective order following transmittal of the Commission's record to the court.

Subpart G—Determinations and Actions Taken

Section 210.41

This section is revised to conform the cross-references to amended § 210.21.

Section 210.42

Paragraph (a)(1)(i) is revised to establish new time frames in which the initial determination on violation must be filed. If the target date for completing the permanent relief phase of the investigation is set at 15 months or less, the initial determination is to be filed three months before the target date. If the target date is more than 15 months, the initial determination is to be filed four months before the target date. (The procedure for establishing the target date is found in § 210.51, discussed below.)

Paragraphs (b) and (c) are revised to reflect the amendment of § 210.70 to include the return as well as possible forfeiture of a complainant's temporary relief bond. Paragraph (c) is further revised to include initial determinations that may be issued in two new situations: in granting a motion for forfeiture or return of respondents' bonds pursuant to § 210.50(d) and in granting a motion to set a target date exceeding 15 months from the date of institution pursuant to § 210.51(a).

Paragraph (h)(3) is revised to give initial determinations issued pursuant to § 210.50(d)(3) the same status as those issued pursuant to § 210.70(c). The effect of the exception expressed in this paragraph is to give a 45-day effective date rather than a 30-day effective date to initial determinations granting motions for forfeiture or return of either complainants' or respondents' bonds.

Section 210.43

Paragraphs (a)(1) and (d) are revised to refer to initial determinations issued under new § 210.50(d) and to put these initial determinations on the same footing as those issued under § 210.70(c).

Section 210.49

Paragraph (a) is revised to conform the cross-references to amended § 210.21.

Section 210.50

Paragraph (a)(3) is revised to implement the specific statutory direction that the Commission determine the amount of a respondent's bond "sufficient to protect the complainant from any injury." 19 U.S.C. 1337(e) and (j)(3). The Commission expects to construe this direction on a case-by-case basis. Language referring to past Commission practice in determining the amount of a respondent's bond has been deleted.

Paragraph (b)(2) is revised to conform the cross-references to amended § 210.21.

Paragraph (c) is new and implements the statutory limitations on issuance of a general exclusion order found in 19 U.S.C. 1337(d)(2). These limitations are consonant with past Commission practice as articulated in *Certain Airless Paint Spray Pumps and Components Thereof*, Inv. No. 337–TA–90 (USITC Pub. 1199, Nov. 1981) and cases following it. The Commission expects the law in this area to continue to develop on a case-by-case basis in view of the new statutory language.

Paragraph (d) is new and implements the statutory requirement that the Commission prescribe terms and conditions under which bonds may be forfeited. 19 U.S.C. 1337(e)(4) and (j)(3). The terms of this rule are essentially similar to those in § 210.70 relating to the forfeiture or return of a complainant's temporary relief bond. Both rules implement the Congressional mandate that the Commission be guided by practice under Rule 65 of the Federal Rules of Civil Procedure with respect to forfeiture of a complainant's bond. H.R. Rep. No. 103–826, 103d Cong., 2d Sess. 142 (1994). Although Federal Rule 65 literally applies to bonding by the proponent of temporary relief, its underlying rationale is equally applicable to respondents' bonds in section 337 investigations. "Practice under Rule 65" includes all sources of authority pertaining to Rule 65 that are generally relied on in the practice of law, including (but not limited to) judicial decisions and notes of the advisory committee on rules. Treatises and commentary also may be considered.

Section 210.51

Congress amended 19 U.S.C. 1337(b) to eliminate the time limit for completing an investigation, but directed that the Commission complete an investigation and make its determination "at the earliest practicable time." Section 210.51(a) is revised to reflect this change and to implement the requirement that the Commission, within 45 days after an investigation is instituted, set a target date for completion of the investigation. The rule allows the administrative law judge to set (and modify) the target date in a final order not subject to review as long as the target date does not exceed 15 months from the date of institution. Target dates exceeding 15 months are set in initial determinations, reviewable by the Commission. The Commission expects that most investigations will be concluded within the traditional time frame of 12 months or less. Deadlines for various activities pertaining to section 337 investigations have been retained in the rules unless specifically amended herein.

Paragraph (c) is revised to reflect the elimination of the Commission's authority to suspend an investigation except as set forth in § 210.23.

Subpart H—Temporary Relief

Section 210.52

Paragraph (c) is revised to indicate that the Commission will be guided by Rule 65 of the Federal Rules of Civil Procedure in determining whether to require a bond as a prerequisite to the issuance of temporary relief, as mandated by the legislative history of the statutory amendments. H.R. Rep. No. 103–826, 103d Cong., 2d Sess. 142 (1994). The factors relied upon by the Commission in its past practice are deleted from paragraphs (c) and (e), and paragraph (f) is redesignated as (e).

Section 210.70

Paragraph (a) is revised to reflect the statutory change authorizing forfeiture of the complainant's temporary relief bond to the respondent and to authorize the complainant to file a motion for the return of its bond when appropriate.

Paragraph (c) is revised to indicate that the Commission will be guided by practice under Rule 65 of the Federal Rules of Civil Procedure in determining whether to require a bond as a prerequisite to the issuance of temporary relief, as mandated by the legislative history of the statutory amendments. H.R. Rep. No. 103–826, 103d Cong., 2d Sess. 142 (1994). "Practice under Rule 65" includes all sources of authority pertaining to Rule 65 that are generally relied on in the practice of law, including (but not limited to) judicial decisions and notes of the advisory committee on rules. Treatises and commentary also may be considered.

Because forfeiture of a bond posted by a complainant now will be to the respondent rather than the government, the provision in the prior rule allowing a motion for forfeiture to be made by the Commission investigative attorney or by the Commission is deleted. Consistent with practice under Rule 65 of the Federal Rules of Civil Procedure, a respondent seeking forfeiture would be required to show the costs and damages incurred as a result of the imposition of temporary relief. The respondent itself is in the best position to make this showing and should bear the responsibility of filing a motion for forfeiture of a bond when appropriate.

The former provision precluding a stay of forfeiture proceedings pending appeal of the Commission's determination on violation also is deleted in view of the statutory change. A stay may or may not be appropriate depending on the facts of each case, including the ability of a respondent to repay an amount forfeited to it in the event of a reversal on appeal.

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Business and industry, Customs duties and inspection, Imports, Investigations.

For the reasons set forth in the preamble, 19 CFR Part 210 is amended as set forth below.

PART 210—ADJUDICATION AND ENFORCEMENT

1. The authority citation for part 210 is revised to read as follows:

Authority: 19 U.S.C. 1333, 1335, and 1337

2. The definition of *investigation* in § 210.3 is amended by revising the fourth sentence to read as follows:

§ 210.3 Definitions.

* * * * *

Investigation * * * An investigation can also involve the processing of one or more of the following: A motion to amend the complaint and notice of investigation; a motion for temporary relief; a motion to designate "more complicated" the temporary relief stage of the investigation; an interlocutory appeal of an administrative law judge's decision on a particular matter; a motion for sanctions for abuse of process, abuse of discovery, or failure to make or cooperate in discovery, which if granted, would have an impact on the adjudication of the merits of the complaint; a petition for reconsideration of a final Commission determination; a motion for termination of the investigation in whole or part; and procedures undertaken in response to a judgment or judicial order issued in an appeal of a Commission determination or remedial order issued under section 337 of the Tariff Act of 1930. * * *

* * * * *

3. Section 210.4(d)(2)(iii) is revised to read as follows:

§ 210.4 Written submissions; representations; sanctions.

* * * * *

(d) * * *

(2) * * *

(iii) Monetary sanctions may not be imposed on the administrative law judge's or the Commission's initiative unless—

(A) The Commission or the administrative law judge issues an order to show cause before the investigation or related proceeding is terminated, in whole or in relevant part, as to the party or proposed party which is, or whose attorneys are, to be sanctioned; and

(B) such termination is the result of—

(1) A motion to withdraw the complaint, motion, or petition that was the basis for the investigation or related proceeding;

(2) A settlement agreement;

(3) A consent order agreement; or

(4) An arbitration agreement.

* * * * *

4. Section 210.5 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), revising paragraphs (b)(2) and (b)(4) and adding new paragraph (c) to read as follows:

§ 210.5 Confidential business information.

* * * * *

(b) * * *

(2) An officer or employee of the Commission who is directly concerned with—

(i) Carrying out or maintaining the records of the investigation or related proceeding for which the information was submitted;

(ii) The administration of a bond posted pursuant to subsection (e), (f), or (j) of section 337 of the Tariff Act of 1930;

(iii) The administration or enforcement of an exclusion order issued pursuant to subsection (d), (e), or (g), a cease and desist order issued pursuant to subsection (f), or a consent order issued pursuant to subsection (c) of section 337 of the Tariff Act of 1930; or

(iv) Proceedings for the modification or rescission of a temporary or permanent order issued under subsection (d), (e), (f), (g), or (i) of section 337 of the Tariff Act of 1930, or a consent order issued under section 337 of the Tariff Act of 1930;

* * * * *

(4) An officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under section 337 (d), (e), or (g) of the Tariff Act of 1930 resulting from the investigation or related proceeding in connection with which the information was submitted.

(c) *Transmission of certain records to district court.* Notwithstanding paragraph (b) of this section, confidential business information may be transmitted to a district court and be admissible in a civil action, subject to such protective order as the district court determines necessary, pursuant to 28 U.S.C. 1659.

* * * * *

5. Section 210.14 is amended by revising the section heading and by adding paragraph (e) to read as follows:

§ 210.14 Amendments to pleadings and notice; supplemental submissions; counterclaims.

* * * * *

(e) *Counterclaims.* At any time after institution of the investigation, but not later than ten business days before the commencement of the evidentiary hearing, a respondent may file a counterclaim at the Commission in accordance with section 337(c) of the Tariff Act of 1930. Counterclaims shall be filed in a separate document. A respondent who files such a counterclaim shall immediately file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the respondent would exist under 28 U.S.C. 1391.

6. Section 210.16(c)(2) is amended by revising the last sentence to read as follows:

§ 210.16 Default.

* * * * *

(c) * * *

(2) * * * The Commission may issue a general exclusion order pursuant to section 337(g)(2) of the Tariff Act of 1930, regardless of the source or importer of the articles concerned, provided that a violation of section 337 of the Tariff Act of 1930 is established by substantial, reliable, and probative evidence, and only after considering the aforementioned public interest factors and the requirements of § 210.50(c).

7. Section 210.21 is amended by redesignating paragraph (d) as paragraph (e), by revising paragraph (a)(2) and by adding a new paragraph (d), to read as follows:

§ 210.21 Termination of investigations.

(a) * * *

(2) Any party may move at any time for an order to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement, including an agreement to present the matter for arbitration, or a consent order, as provided in paragraphs (b), (c) and (d) of this section.

* * * * *

(d) *Termination based upon arbitration agreement.* Upon filing of a motion for termination to the administrative law judge or the Commission, a section 337 investigation may be terminated as to one or more respondents pursuant to section 337(c) of the Tariff Act of 1930 on the basis of an agreement between complainant and one or more of the respondents to present the matter for arbitration. The motion and a copy of the arbitration agreement shall be certified by the administrative law judge to the Commission with an initial determination if the motion for termination is granted. If the agreement or the initial determination contains confidential business information, copies of the agreement and initial determination with confidential business information deleted shall be certified to the Commission with the confidential versions of such documents. The Commission shall publish a notice in the Federal Register stating that an initial determination has been received, that nonconfidential versions of the initial determination and the agreement are available for inspection in the Office of the Secretary, and that interested persons may submit written comments concerning termination of the respondents in question within 10 days of the date of publication of the notice in the Federal Register. An order of termination based on an arbitration agreement does not constitute a determination as to violation of section 337 of the Tariff Act of 1930.

* * * * *

8. Section 210.22 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

9. Section 210.23 is amended by revising the first sentence to read as follows:

§ 210.23 Suspension of investigation.

Any party may move to suspend an investigation under this part, because of the pendency of proceedings before the Secretary of Commerce or the administering authority pursuant to section 337(b)(3) of the Tariff Act of 1930. * * *

10. Section 210.24 is amended by removing paragraph (a)(2), redesignating paragraph (a)(3) as (a)(2), and revising paragraphs (a)(1) and (b)(2) to read as follows:

§ 210.24 Interlocutory appeals.

* * * * *

(a) * * *

(1) Requires the disclosure of Commission records or requires the appearance of Government officials pursuant to § 210.32(c)(2); or

* * * * *

(b) * * *

(2) Applications for review of a ruling by an administrative law judge under § 210.5(e)(1) as to whether information designated confidential by the supplier is entitled to confidential treatment under § 210.5(b) may be allowed only upon request made to the administrative law judge and upon determination by the administrative law judge in writing, with justification in support thereof.

* * * * *

11. Section 210.39 is amended by redesignating paragraphs (b) through (d) as paragraphs (c) through (e) and adding a new paragraph b to read as follows:

§ 210.39 In camera treatment of confidential information.

* * * * *

(b) *Transmission of certain Commission records to district court.* In a civil action involving parties that are also parties to a proceeding before the Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court may stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission under certain conditions. If such a stay is in effect, after the determination of the Commission becomes final, the Commission shall certify to the district court such portions of the record of its proceeding as the district court may request. Notwithstanding paragraph (a) of this section, the in camera record may be transmitted to a district court and be admissible in a civil action, subject to such protective order as the district court determines necessary, pursuant to 28 U.S.C. 1659.

* * * * *

12. Section 210.41 is revised to read as follows:

§ 210.41 Termination of investigation.

Except as provided in § 210.21(b)(2), (c) and (d), an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.45(c).

13. Section 210.42 is amended by revising paragraphs (a)(1)(i), (b), (c), and (h)(3) to read as follows:

§ 210.42 Initial determinations.

(a)(1)(i) *On issues concerning violation of section 337* Unless otherwise ordered by the Commission, the administrative law judge shall certify the record to the Commission and shall file an initial determination on whether there is a violation of section 337 of the Tariff Act of 1930 no later than 3 months before the target date set pursuant to § 210.51(a) if the target date is 15 months or less from the date of institution, and no later than 4 months before the target date if the target date is more than 15 months from the date of institution.

* * * * *

(b) *On issues concerning temporary relief or forfeiture of temporary relief bonds.* Certification of the record and the disposition of an initial determination concerning a motion for temporary relief are governed by §§ 210.65 and 210.66. The disposition of an initial determination concerning possible forfeiture or return of a complainant's temporary relief bond, in whole or in part, is governed by § 210.70.

(c) *On other matters.* The administrative law judge shall grant the following types of motions by issuing an initial determination or shall deny them by issuing an order: a motion to amend the complaint or notice of investigation pursuant to § 210.14(b); a motion for a finding of default pursuant to § 210.16; a motion for summary determination pursuant to § 210.18; a motion for intervention pursuant to § 210.19; a motion for termination pursuant to § 210.21; a motion to suspend an investigation pursuant to § 210.23; a motion for forfeiture or return of respondents' bonds pursuant to § 210.50(d); a motion to set a target date exceeding 15 months pursuant to § 210.51(a); or a motion for forfeiture or return of a complainant's temporary relief bond pursuant to § 210.70.

* * * * *

(h) * * *

(3) An initial determination filed pursuant to § 210.42(c) shall become the determination of the Commission 30 days after the date of service of the initial determination, except as provided in paragraph (h)(5) of this section, § 210.50(d)(3) and § 210.70(c), unless the Commission, within 30 days after the date of such service shall have ordered review of the initial determination or certain issues therein or by order has changed the effective date of the initial determination.

* * * * *

14. Section 210.43 is amended by revising the first and last sentences of paragraph (a)(1) and the first sentence of paragraph (d)(1) to read as follows:

§ 210.43 Petitions for review of initial determinations on matters other than temporary relief.

(a) *Filing of the petition.* (1) Except as provided in paragraph (a)(2) of this section, any party to an investigation may request Commission review of an initial determination issued under § 210.42(a)(1) or (c), § 210.50(d)(3) or § 210.70(c) by filing a petition with the Secretary. * * * A petition for review of an initial determination issued under § 210.50(d)(3) or § 210.70(c) must be filed within 10 days after issuance of the initial determination.

* * * * *

(d) *Grant or denial of review.* (1) The Commission shall decide whether to grant, in whole or in part, a petition for review of an initial determination filed pursuant to § 210.42(a)(1), § 210.50(d)(3) or § 210.70(c) within 45 days of the service of the initial determination on the parties, or by such other time as the Commission may order. * * *

* * * * *

15. Section 210.49 is amended by revising paragraph (a) to read as follows:

§ 210.49 Implementation of Commission action.

(a) *Service of Commission determination upon the parties.* A Commission determination pursuant to § 210.45(c) or a termination on the basis of a licensing or other agreement, a consent order or an arbitration agreement pursuant to § 210.21(b), (c) or (d), respectively, shall be served upon each party to the investigation.

* * * * *

16. Section 210.50 is amended by revising paragraph (a)(3) and the first sentence of paragraph (b)(2), and by adding paragraphs (c) and (d), to read as follows:

§ 210.50 Commission action, the public interest, and bonding by respondents.

(a) * * *

(3) Determine the amount of the bond to be posted by a respondent pursuant to section 337(j)(3) of the Tariff Act of 1930 following the issuance of temporary or permanent relief under section 337(d), (e), (f), or (g) of the Tariff Act of 1930, taking into account the requirement of section 337(e) and (j)(3) that the amount of the bond be sufficient to protect the complainant from any injury.

* * *

(b) * * *

(2) Regarding terminations by settlement agreement, consent order, or arbitration agreement under § 210.21 (b), (c) or (d), the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled with respect to issues relating solely to the public interest.

* * *

(c) No general exclusion from entry of articles shall be ordered under paragraph (a)(1) of this section unless the Commission determines that—

(1) Such exclusion is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

(2) There is a pattern of violation of section 337 of the Tariff Act of 1930 and it is difficult to identify the source of infringing products.

(d) *Forfeiture or return of respondents' bonds.* (1)(i) If one or more respondents posts a bond pursuant to 19 U.S.C. 1337(e)(1) or 1337(j)(3), proceedings to determine whether a respondent's bond should be forfeited to a complainant in whole or part may be initiated upon the filing of a motion by a complainant within 30 days after expiration of the Presidential review period under 19 U.S.C. 1337(j).

(ii) A respondent may file a motion for the return of its bond.

(2) Any nonmoving party may file a response to a motion filed under paragraph (d)(1) of this section within 15 days after filing of the motion, unless otherwise ordered by the administrative law judge.

(3) A motion for forfeiture or return of a respondent's bond in whole or part will be adjudicated by the administrative law judge in an initial determination with a 45-day effective date, which shall be subject to review under the provisions of §§ 210.42 through 210.45. In determining whether to grant the motion, the administrative law judge and the Commission will be guided by practice under Rule 65 of the Federal Rules of Civil Procedure (taking into account that the roles of the parties are reversed in this instance).

(4) If the Commission determines that a respondent's bond should be forfeited to a complainant, and if the bond is being held by the Secretary of the Treasury, the Commission Secretary

shall promptly notify the Secretary of the Treasury of the Commission's determination.

17. Section 210.51 is amended by revising paragraphs (a) and (c) to read as follows:

§ 210.51 Period for concluding investigation.

(a) *Permanent relief.* Within 45 days after institution of the investigation, the administrative law judge shall issue an order setting a target date for completion of the investigation. If the target date does not exceed 15 months from the date of institution of the investigation, the order of the administrative law judge shall be final and not subject to interlocutory review. If the target date exceeds 15 months, the order of the administrative law judge shall constitute an initial determination. After the target date has been set, it can be modified by the administrative law judge for good cause shown before the case is certified to the Commission or by the Commission after the case is certified to the Commission.

* * * * *

(c) *Computation of time.* In computing the deadlines imposed in paragraph (b) of this section, there shall be excluded any period during which the investigation is suspended pursuant to § 210.23.

18. Section 210.52 is amended by removing paragraph (e), redesignating paragraph (f) as paragraph (e), and revising paragraph (c) to read as follows:

§ 210.52 Motions for temporary relief.

* * * * *

(c) In determining whether to require a bond as a prerequisite to the issuance of temporary relief, the Commission will be guided by practice under Rule 65 of the Federal Rules of Civil Procedure.

* * * * * *

19. Section 210.70 is revised to read as follows:

§ 210.70 Forfeiture or return of complainant's temporary relief bond.

(a)(1) If the Commission determines that one or more of the respondents whose merchandise was covered by the temporary relief order has not violated section 337 of the Tariff Act of 1930 to the extent alleged in the motion for temporary relief and provided for in the temporary relief order, proceedings to determine whether the complainant's bond should be forfeited to one or more respondents in whole or part may be initiated upon the filing of a motion by a respondent within 30 days after filing of the aforesaid Commission determination on violation.

(2) A complainant may file a motion for the return of its bond.

(b) Any nonmoving party may file a response to a motion filed under paragraph (a) of this section within 15 days after filing of the motion, unless otherwise ordered by the administrative law judge.

(c) A motion for forfeiture or return of a complainant's temporary relief bond in whole or part will be adjudicated by the administrative law judge in an initial determination with a 45-day effective date, which shall be subject to review under the provisions of §§ 210.42 through 210.45. In determining whether to grant the motion, the administrative law judge and the Commission will be guided by practice under Rule 65 of the Federal Rules of Civil Procedure.

Issued: December 23, 1994.

By Order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-32125 Filed 12-29-94; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-94-050]

RIN 2115-AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Sunset Beach, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the North Carolina Department of Transportation, the Coast Guard is changing the regulations that govern the operation of the drawbridge across the Atlantic Intracoastal Waterway, mile 337.9, at Sunset Beach, North Carolina. This rule will restrict bridge openings in the month of November to help reduce highway traffic congestion problems, public safety, and welfare concerns associated with frequent bridge openings caused by recreational boat traffic. This rule is intended to provide for regularly scheduled drawbridge openings to help reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge.

EFFECTIVE DATE: This rule is effective on January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398-6222.

SUPPLEMENTARY INFORMATION:

Drafting information: The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Section, and LCDR C.A. Abel, Project Counsel, Fifth Coast Guard District Legal Office.

Regulatory History

On September 7, 1994, the Coast Guard published a notice of proposed rulemaking entitled Atlantic Intracoastal Waterway, Sunset Beach, North Carolina, in the **Federal Register** (59 FR 46209). The comment period ended November 7, 1994. The Coast Guard received no comments on the proposal. The Commander, Fifth Coast Guard District, also published the proposed rule as a public notice on October 14, 1994, with the comment period ending November 17, 1994, and no comments were received as a result of this notice. A public hearing was not requested and one was not held.

Background and Purpose

The North Carolina Department of Transportation has requested, on behalf of the Town of Sunset Beach, North Carolina, that openings of the drawbridge across the Atlantic Intracoastal Waterway, mile 337.9, at Sunset Beach, North Carolina, be further restricted through the month of November. This would help to reduce highway traffic congestion problems, public safety, and welfare concerns associated with frequent bridge openings caused by recreational boat traffic. Currently, the drawbridge opens on the hour from 7 a.m. to 7 p.m. for pleasure vessels from April 1 to October 31. It opens on signal at any time for vessels of the United States, State and local government vessels, commercial vessels, and any vessel in an emergency involving danger to life or property. This rule extends this schedule to November 30 with drawbridge openings occurring on the hour from 7 a.m. to 7 p.m.

The North Carolina Department of Transportation conducted a study of the drawlogs for this drawbridge for the month of November and it revealed that the drawbridge opened 558 times in 1992 and 571 times in 1993. These openings exceeded the openings for every other month during the same years. Based on this information, the Coast Guard believes these regulations will permit an orderly flow of recreational vessel traffic through the draw. This should not unduly restrict recreational vessel passage through the bridge, since they can plan their vessel transits around the hourly restriction.

Regulatory Evaluation

This 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 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 final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final 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 principals and criteria contained in Executive Order 12612, and it has been determined that this rule will 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 section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations to read 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 1.05–1(g).

2. In Section 117.821 paragraph (b)(5) is revised to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albemarle Sound to Sunset Beach.

* * * * *

(b) * * *

(5) NC 50 bridge, mile 337.9; at Sunset Beach, NC from April 1 to November 30, between 7 a.m. and 7 p.m., must open if signaled on the hour.

* * * * *

Dated: December 12, 1994.

W.J. Ecker,

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

[FR Doc. 94–32225 Filed 12–29–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD05–94–103]

RIN 2115–AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Chesapeake, VA

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: At the request of the City of Chesapeake, Virginia the Coast Guard is changing the regulations that govern the operation of the drawbridge across the Southern Branch of the Elizabeth River, Atlantic Intracoastal Waterway, mile 5.8, at Chesapeake, Virginia, by limiting bridge openings during the morning and evening rush hours. This rule will allow commercial cargo vessels, tugs, and tugs with tows passage through the bridge during morning and evening rush hours, provided a 2-hour advance notice is given to the Gilmerton Bridge. This rule also includes a provision that allows public vessels of the United States, vessels in distress, commercial vessels carrying liquefied flammable gas or other harmful substances, and commercial or public vessels assisting in an emergency situation passage through the bridge at any time. All other commercial and recreational vessel traffic will be denied draw openings during the morning and evening rush hours. The changes to these regulations are, to the extent practical and feasible, intended to provide for regularly scheduled drawbridge openings to help reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge while providing for the reasonable needs of navigation.

DATES: This interim rule is effective December 30, 1994.

Comments must be received on or before March 30, 1995.

ADDRESSES: Comments may be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be delivered to Room 109 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (804) 398–6222. Comments will become part of this docket and will be available for inspection at Room 109, Fifth Coast Guard District.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398–6222.

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 (CGD05–94–103) and the specific section of this rule to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander (ob) at the address under ADDRESSES. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.