

qualifies and how and to what degree this rule would economically affect it.

### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have

a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.211, revise paragraphs (a)(3), (b) introductory text and (b)(1) to read as follows:

#### § 117.211 Mystic River.

(a) \* \* \*

(3) Commercial vessels shall be passed immediately at any time; however, the opening may be delayed up to eight minutes to allow trains, which have entered the drawbridge block and are scheduled to cross the bridge without stopping, to clear the block.

\* \* \* \* \*

(b) The draw of the U.S. 1 Bridge, mile 2.8, at Mystic, shall open on signal except:

(1) From May 1 through October 31, from 7:40 a.m. to 6:40 p.m., the draw need only open hourly at twenty minutes before the hour.

\* \* \* \* \*

Dated: February 17, 2004.

**John L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 04–4489 Filed 2–27–04; 8:45 am]

**BILLING CODE 4910–15–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[SC–200409(b); FRL–7628–6]

#### Approval and Promulgation of State Plan for Designated Facilities and Pollutants: South Carolina

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the section 111(d)/129 State Plan submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) for the State of South Carolina on April 12, 2002, for implementing and enforcing the Emissions Guidelines applicable to existing Commercial and Industrial Solid Waste Incinerators. The Plan was submitted by SC DHEC to satisfy Federal Clean Air Act requirements. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second

comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before March 31, 2004.

**ADDRESSES:** Comments may be submitted by mail to: Joydeb Majumder, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **SUPPLEMENTARY INFORMATION** (sections IV.B.1. through 3.) which is published in the Rules Section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Joydeb Majumder, at (404) 562-9121 or via electronic mail at [majumder.joydeb@epa.gov](mailto:majumder.joydeb@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: February 17, 2004.

J. I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 04-4462 Filed 2-27-04; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

49 CFR Parts 172, 173, 174, 175, 176, 177, and 178

[Docket No. RSPA-04-17167 (Notice No. 04-02)]

### Regulatory Flexibility Act Section 610 and Plain Language Reviews

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of regulatory review; request for comments.

**SUMMARY:** RSPA requests comments on the economic impact of its regulations on small entities. As required by the Regulatory Flexibility Act and as published in DOT's Semi-Annual Regulatory Agenda, we are analyzing the rules applicable to the transportation of explosives and of hazardous materials in cylinders to identify requirements that may have a significant economic impact on a substantial number of small entities. We

also request comments on ways to make these regulations easier to read and understand.

**DATES:** Comments must be received by June 1, 2004.

**ADDRESSES:** Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Identify the docket number RSPA-04-17167 at the beginning of your comments and submit two copies. If you want to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. You can also submit comments by e-mail by accessing the Dockets Management System on the Internet at <http://dms.dot.gov>. or by fax to (202) 366-3753.

The Dockets Management System is located on the Plaza Level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, you can review comments by accessing the Dockets Management System at <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Susan Gorsky, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366-8553; or Donna O'Berry, Office of Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366-4400.

### SUPPLEMENTARY INFORMATION:

#### I. Section 610 of the Regulatory Flexibility Act

##### A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), requires agencies to conduct periodic reviews of rules that have a significant economic impact on a substantial number of small

business entities. The purpose of the review is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

### B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on December 9, 2002, listing in Appendix D (67 FR 74799) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT's 10-year review plan for all of its existing regulations.

The Research and Special Programs Administration (RSPA, we) has divided its Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and Section 610 Review Year. For purposes of the review announced in this notice, the Analysis year began in December 2002, coincident with the Fall 2002 publication of the Semiannual Regulatory Agenda, and will conclude in the fall of 2003.

During the Analysis Year, we will analyze each of the rules in a given year's group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall's Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have a negative finding, we will provide a short explanation. For parts, subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions,