

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 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 Executive Order 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 might 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.ID, 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 proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed 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 authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.300 [Redesignated as § 117.299]

2. Redesignate § 117.300 as § 117.299.
3. Add a new § 117.300 to read as follows:

§ 117.300 Manatee River.

The draw of the CSX Railroad Bridge across the Manatee River, mile 4.5 at Bradenton, operates as follows:

- (a) The bridge is not tended.
- (b) The draw is normally in the fully open position, displaying green lights to indicate that vessels may pass.
- (c) As a train approaches, provided the scanners do not detect a vessel under the draw, the lights change to flashing red and a horn continuously sounds while the draw closes. The draw remains closed until the train passes.
- (d) After the train clears the bridge, the lights continue to flash red and the horn again continuously sounds while the draw opens, until the draw is fully open and the lights return to green.

Dated: February 23, 2004.

Harvey E. Johnson, Jr.,

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

[FR Doc. 04–4781 Filed 3–3–04; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 19 and 20

RIN 2900–AE78

Board of Veterans' Appeals: Appeals Regulations; Rules of Practice

AGENCY: Department of Veterans Affairs.
ACTION: Withdrawal of proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) published a proposed rule in the *Federal Register* on February 3, 1992 (57 FR 4131) to amend its regulations regarding the Appeals Regulations and Rules of Practice of the Board of Veterans' Appeals. The proposed rule and the comments we received have been superseded by events. Accordingly, this document hereby withdraws the proposed rule.

DATES: The proposed rule is withdrawn as of March 4, 2004.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (012), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: In 1988, the Veterans' Judicial Review Act (Pub. L. 100–687, Div. A) was signed into law. On August 18, 1989, VA published a proposed rule in the *Federal Register* (54 FR 34334) to revise the Appeals Regulations and Rules of Practice of the Board of Veterans' Appeals (Board). The revisions were deemed necessary in order to provide appellate procedures that conformed to the law and to inform the public about those procedures.

Based on that proposed rule, on February 3, 1992, VA published in the

Federal Register (57 FR 4088) final regulations that amended parts 14 and 19 and added a part 20 to title 38, Code of Federal Regulations. At that time, VA also deemed necessary further additions and revisions to some of the Board's Appeals Regulations and Rules of Practice. VA therefore published on February 3, 1992, as a companion document in the **Federal Register** (57 FR 4131) a proposed rule to clarify certain regulations and, in some instances, provide revised regulations that more accurately reflected the relevant statutory authority. VA is now by this document withdrawing that proposed rule.

Subsequent to the publication of the February 3, 1992, proposed rule, the Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994 (Public Law 103-271) was signed into law on July 1, 1994. In addition, Public Law 105-111, concerning revision of decisions based on clear and unmistakable error, was signed into law on November 21, 1997. These laws significantly altered the appeals process and organization of the Board. The structure of the Board was changed to permit decisions to be made by individual members of the Board rather than by 3-Member "Sections." The Board's jurisdiction was also expanded to include the review of its own decisions for clear and unmistakable error. 38 U.S.C. 7111. Amendments to the Board's Appeals Regulations and Rules of Practice were subsequently published that rendered portions of the February 3, 1992, proposed rule obsolete.

VA believes that withdrawing the February 3, 1992, proposed rule would be less confusing than attempting to sift out the superseded provisions from the ones that could go forward. The Board will reevaluate appropriate amendments to its Regulations and Rules of Practice in light of the intervening changes.

Approved: December 30, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[PA190-7008b; FRL-7631-6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Pennsylvania; Control of Emissions From Existing Small Municipal Waste Combustion Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the section 111(d)/129 negative declaration submitted by the Pennsylvania Department of Environmental Protection, Bureau of Air Quality. The negative declaration certifies that small municipal waste combustion (MWC) units, which are subject to the requirements of sections 111(d) and 129 of the Clean Air Act (the Act), do not exist within the Commonwealth of Pennsylvania, excluding Allegheny and Philadelphia counties. In the Final Rules section of this **Federal Register**, EPA is approving the State's negative declaration submittal as a direct final rule without a 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 adverse comments are received in response to this action, 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 proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 5, 2004.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Walter Wilkie, Chief, Air Quality Analysis Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to wilkie.walter@epa.gov or <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the

Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., (215) 814-2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA190 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to wilkie.walter@epa.gov, attention PA190-7008. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.regulations.gov), EPA's e-mail system automatically