

I. Discussion

On April 18, 2019, at 84 FR 16205, the Federal Mediation and Conciliation Service (FMCS) published a final rule amending the “Appendix to Part 1404—Arbitration Policy; Schedule of Fees,” which implemented a modest increase in user fees that had remained unchanged for more than eight years. FMCS increased fees to more accurately reflect FMCS’ costs of maintaining the Arbitration Roster and the technology to support it, as well as responding to requests for arbitrator panels and biographical data.

After consideration and review, FMCS has concluded that the rule addressing fees is duplicative and currently incorporated in subparts of the rule. Therefore, FMCS is issuing this final rule, which rescinds the rule on the Appendix to Part 1404—Arbitration Policy; Schedule of Fees.

II. Final Rule

FMCS has determined that this rule is suitable for final rulemaking. The revisions to FMCS’ policies and requirements surrounding arbitrators are purely internal matters of agency management, as well as the agency’s procedure, and practice. Accordingly, FMCS is not required to engage in a notice and comment process to issue this rule under the Administrative Procedures Act, See U.S.C. 553(a)(2), 553(b)(A). Furthermore, because this rule is procedural rather than substantive, the normal requirement of 5 U.S.C. 553(d) that a rule not be effective until at least 30 days after publication in the **Federal Register** is inapplicable. FMCS also finds good cause to provide an immediate effective date for this rule because it imposes no obligations on parties outside the federal government and therefore no advance notice is required to enable employers or other private parties to come into compliance.

List of Subjects in 29 CFR Part 1404

Administrative practice and procedure, Labor management relations.

For the reasons discussed in the preamble, and under the authority of 29 U.S.C. 172 and the Taft-Hartley Act of 1947, FMCS amends 29 CFR part 1404 as follows:

PART 1404—ARBITRATION SERVICES

- 1. The authority citation for part 1404 continues to read as follows:

Authority: 29 U.S.C. 172 and 29 U.S.C. 173 *et seq.*

Appendix to Part 1404 [Removed]

- 2. Remove the appendix to part 1404.

Dated: November 15, 2022.

Anna Davis,

Deputy General Counsel.

[FR Doc. 2022–25141 Filed 11–17–22; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0930]

RIN 1625–AA00

Safety Zone; Brakes Bayou, Beaumont, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within 200-feet of an unnamed railroad bridge that crosses Brakes Bayou in approximate position 30°05′22.3″ N 094°05′53.5″ W. The safety zone is needed to protect personnel, vessels and the marine environment from potential hazards created by demolition of the bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Port Arthur.

DATES: This rule is effective without actual notice from November 18, 2022 through December 9, 2022. For the purposes of enforcement, actual notice will be used from November 9, 2022 until November 18, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0930 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Scott Whalen, Marine Safety Unit Port Arthur, TX, U.S. Coast Guard; telephone 409–719–5086, email scott.k.whelen@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Marine Safety Unit Port Arthur
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with because it is impracticable to publish a Notice of Proposed Rulemaking because the Coast Guard must establish this safety zone by November 9, 2022, and lacks sufficient time to provide a reasonable comment period and to consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to protect personnel, vessels, and the marine environment from the potential safety hazards created by the demolition of the railroad bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Port Arthur (COTP) has determined that potential hazards associated with demolition of the railroad bridge that crosses Brakes Bayou will be a safety concern for anyone within 200-feet of bridge located in approximate position 30°05′22.3″ N 094°05′53.5″ W (NAD83). For this reason, this rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being demolished.

IV. Discussion of the Rule

This rule establishes a safety zone from November 9, 2022 through December 9, 2022. The safety zone will cover all navigable waters within 200-feet of vessels and machinery being used by personnel to demolish the railroad bridge that crossed Brakes Bayou in Beaumont, TX. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the bridge is being demolished.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the limited size and location of the safety zone. This safety zone will impact a small bayou tributary to the Neches River in Beaumont, TX. The bayou above the railroad bridge is approximately 2.2 NM, possess no residences, boat houses or public boat ramps and no commercial docks.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises 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 Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. 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 or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

E. 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zone lasting 30 days that will prohibit entry within 200-feet the abandoned railroad bridge that crossed Brakes Bayou in approximate position 30°05′22.3″ N 094°05′53.5″ W (NAD83) during demolition operations. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T08–0930 to read as follows:

§ 165.T08–0930 Safety Zone; Brakes Bayou, Beaumont, TX.

(a) *Location.* The following area is a safety zone: all navigable waters of Brakes Bayou, shoreline-to-shoreline, extending 200-feet on either side of the

abandoned railroad bridge that crosses Brakes Bayou in approximate position 30°05'22.3" N 094°05'53.5" W. The duration of the safety zone is intended to protect personnel, vessels and the marine environment from potential hazards created by bridge demolition operations.

(b) *Effective period.* This section is effective from November 9, 2022 through December 9, 2022.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry of vessels or persons into the safety zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative. They may be contacted on VHF-FM channel 13 or 16, or by phone at by telephone at 409-719-5070.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs).

Dated: November 8, 2022

Molly A. Wike,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Zone Port Arthur.

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR 1151

[Docket No. ATCB-2022-0005]

RIN 3014-AA49

Bylaws

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Direct final rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (hereafter, "Access Board," or "Board") has amended its bylaws. These amendments update agency procedures and enhance efficiency of operations.

DATES: This final rule is effective November 18, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher Kuczynski, General Counsel, U.S. Access Board, (202) 272-0042, kuczynski@access-board.gov.

SUPPLEMENTARY INFORMATION:

I. Background

At its November 9, 2022 meeting, the Access Board approved a number of changes to its bylaws, published at 36 CFR 1151. Specifically:

- A new section (to be codified at 36 CFR 1151.3) sets out requirements for Board membership, consistent with section 502 of the Rehabilitation Act (29 U.S.C. 792), and prescribes rules for the designation in writing of federal members and federal liaisons to the Board. Federal members are heads of agencies listed in paragraph (b) of § 1151.3, or their designees, who must be at Level IV of the Executive Schedule or higher. Federal members may include individuals serving in positions on a temporary or acting basis, in accordance with federal law and with agency rules, policies, and practices (paragraph (c)(2)). Federal members and federal liaisons to the Board must be designated in writing (paragraphs (c)(1) and (3)), (which may include designation by electronic mail from a verifiable account), by someone who has authority to make the designation (paragraph (c)(4)). Written designations for members may identify the particular position within the agency, an individual, or both. Previously, the Board bylaws had no requirements concerning designation in writing of federal members or liaisons.

- The language in what was, prior to amendment of the bylaws, § 1151.3(a) (concerning officers), which says that the Board is the governing body of the agency, is now the first sentence in § 1151.2. Additionally, former paragraph (b) (Chair and Vice Chair) and former paragraph (c) (Elections), have been combined and redesignated as paragraphs (a)(1) and (2), former paragraph (d) (Executive Director) is now paragraph (b), and former paragraph (e) (General Counsel) is now paragraph (c).

- Section 1151.5 (previously § 1151.4), entitled "Delegations," has been revised slightly. The title of paragraph (a) is now "Delegations to the Executive Committee," since that is more consistent with the overall title of the section and better describes the contents of the paragraph, which describe delegations to, not by, the Executive Committee. A cross-reference to § 1151.7(a), which establishes the Executive Committee is also provided here, since this is the first reference to the Executive Committee in the bylaws.

- Section 1151.6 (previously § 1151.5) makes several changes with respect to Board meetings.

- Paragraph (a) reduces the number of meetings from six annually to four.

One of the meetings may be a public event outside of the Washington, DC area. Such a public event is not, as it previously had been, required each year, but may instead be a regular meeting of the Board.

- Paragraph (b) says that meetings ordinarily will occur in January, April, July, and October, but does not specify a particular day or week during each month that the meeting must occur. Previously, the bylaws said that regular meetings of the Board would occur on the Wednesday following the second Tuesday of the month. The Chair may reschedule a meeting to the month before or after the month specified in the bylaws.

- Paragraph (c) which is new, specifies that two meetings will be in-person, with an option for participation remotely, and two meetings may be entirely remote. This paragraph also states that the Board will comply with all applicable laws in the manner in which it conducts meetings, including the obligation to provide reasonable accommodations for Board members, employees, members of the public, and other participants (who might include, for example, individuals making presentations to the Board or a committee). Because of the addition of this paragraph, the lettering of subsequent paragraphs has been adjusted.

- Paragraph (d) alters the requirement, in former paragraph (c), that the Chair establish the agenda for Board meetings to say that the Chair may consult with the Executive Director as necessary and appropriate. This merely clarifies existing practice.

- Paragraph (e) provides for notice to the Board and to the public of the dates for each year's Board meetings at least 30 days prior to the January meeting. Notice may be provided on the Access Board's website and/or through any other means by which the public is likely to access it. Notice to members of the public will include language indicating that reasonable accommodation will be provided to enable participation in the meeting by individuals with disabilities, absent undue burden. Although the Board has historically provided reasonable accommodations for Board members, staff, and members of the public, inclusion of this language in the notice promotes the broadest level of participation possible by informing individuals with disabilities who may not be aware of the right to reasonable accommodation, and is consistent with the Board's mission of promoting accessibility and inclusion for people with disabilities.