

waiver from the prohibition contained in this section based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Commission programs are administered. A waiver under this paragraph may be accompanied by appropriate conditions, such as requiring execution of a written statement of disqualification. Notwithstanding the grant of any waiver, an employee remains subject to the disqualification requirements of 5 CFR 2635.402 and 2635.502.

**§ 8401.103 Prior approval for outside employment.**

(a) *Prior approval requirement.* (1) Before engaging in any outside employment, whether or not for compensation, a Commission employee who is classified at GS-13 or above, as well as a Commission attorney at any grade level, must obtain the written approval of the employee's immediate supervisor and the designated agency ethics official. This requirement does not apply to a special Government employee of the Commission.

(2) Requests for approval shall be forwarded through the employee's immediate supervisor to the designated agency ethics official and shall include at a minimum the name of the person, group, or organization for whom the work is to be performed; the type of work to be performed; and the proposed hours of work and approximate dates of employment.

(b) *Standard for approval.* Approval shall be granted only upon a determination that outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR 2635 and this part.

(c) *Definitions.* For purposes of this section:

(1) *Employment* means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee or teacher. It also includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional,

social, fraternal, educational, recreational, public service or civic organization, unless such activities involve the provision of professional services or advice or are for compensation other than reimbursement expenses.

(2) *Professional services* means the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1).

**TITLE 29—[AMENDED]**

**CHAPTER XXVII—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

2. Part 2703 of 29 CFR chapter XXVII is revised to read as follows:

**PART 2703—EMPLOYEE RESPONSIBILITIES AND CONDUCT**

**Sec.**

2703.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

2703.2 Designated Agency Ethics Official and Alternate Designated Agency Ethics Official.

2703.3 Conflict of interest exemption.

Authority: 5 U.S.C. 7301; 18 U.S.C. 208; 5 CFR 2638.202.

**§ 2703.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.**

Members and employees of the Federal Mine Safety and Review Commission are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635; the Commission's regulations at 5 CFR part 8401, which supplement the executive branch-wide standards; and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

**§ 2703.2 Designated Agency Ethics Official and Alternate Designated Agency Ethics Official.**

The Chairman shall appoint an individual to serve as the designated agency ethics official, and an individual to serve in an acting capacity in the absence of the primary designated agency ethics official (alternate designated agency ethics official), to coordinate and manage the Commission's ethics program.

**§ 2703.3 Conflict of interest exemption.**

The financial interests hereinafter described are, to the extent indicated, exempted from application of the financial conflict of interest prohibition at 18 U.S.C. 208(a) because they have been determined to be too remote or inconsequential to affect the integrity of a Commission employee's services in

any matter in which he may act in an official capacity:

Ownership of shares of stock, bonds, other corporate securities, or shares in a mutual fund or regulated fund or regulated investment company, so long as the current aggregate fair market value of such holdings in a single enterprise does not exceed \$5,000.

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 117**

[CGD08-96-025]

RIN 2115-AE47

**Drawbridge Operation Regulations; Red River, LA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule removes the regulation for the Kansas City Southern Railroad Bridge across the Red River, mile 88.0 at Alexandria, Rapides Parish, Louisiana because the swing span bridge has been removed.

**EFFECTIVE DATE:** This regulation is effective on July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Phil Johnson, Bridge Administration Branch, (504) 589-2965.

**SUPPLEMENTARY INFORMATION:**

**Background and Purpose**

The Kansas City Railroad Bridge was removed from service and demolished on May 3, 1996. Since there is no longer a drawbridge at this location, there is no longer a need for the drawbridge operation regulation.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making the regulation effective less than 30 days after Federal Register publication. Publishing a notice of proposed rulemaking and delaying the effective date are impracticable and unnecessary because the swing span of the bridge is no longer in existence.

**Regulatory Evaluation**

This rule is not a significant regulatory action under Executive Order 12866 and is not significant under the DOT Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that

a full Regulatory Evaluation is unnecessary.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this 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). This rule will have little impact on either vehicular or navigational traffic. Because it expects the impact of this final rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that it will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This 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 principles and criteria contained in Executive Order 12612 and has determined that this rule does 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 of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

#### **PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for Part 117 continued to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

#### **§ 117.491 [Amended]**

2. In § 117.491, paragraph (b) is removed and (c), (d), (e) and (f) are

redesignated (b), (c), (d) and (e), respectively.

Dated: July 11, 1996.

T.W. Josian,

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 96-19479 Filed 7-30-96; 8:45 am]

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## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 4**

#### **RIN 2900-AE95**

#### **Schedule for Rating Disabilities; Infectious Diseases, Immune Disorders and Nutritional Deficiencies (Systemic Conditions)**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document amends that portion of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities concerning Infectious Diseases, Immune Disorders and Nutritional Deficiencies (formerly entitled Systemic Conditions). The effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology, unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

**EFFECTIVE DATE:** This amendment is effective August 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** Caroll McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington DC, 20420, (202) 273-7230.

**SUPPLEMENTARY INFORMATION:** As part of the first comprehensive review of its Schedule for Rating Disabilities since 1945, VA published in the Federal Register of April 30, 1993 (58 FR 26083-87) a proposal to amend the portion of the Schedule for Rating Disabilities concerning Systemic Conditions. This document has renamed that portion of the rating schedule as Infectious Diseases, Immune Disorders and Nutritional Deficiencies. Interested persons were invited to submit written comments on or before June 29, 1993. We received comments from the Disabled American Veterans and the Paralyzed Veterans of America.

The final rule includes a diagnostic code (DC 6354) and diagnostic criteria (38 CFR 4.88a) for chronic fatigue syndrome. These provisions for chronic fatigue syndrome were added to the

portion of the rating schedule then titled Systemic Conditions by a final rule published in the Federal Register of July 19, 1995 (60 FR 37012-13).

We proposed to reduce or eliminate the convalescence periods for several infectious diseases, and both commenters disagreed with those proposals.

We proposed to change the convalescent periods for Asiatic cholera (DC 6300), Bartonellosis (DC 6306), and scrub typhus (DC 6317) from six months to three months, noting that when treated in a straightforward manner, the active phase of the diseases resolves quickly, and need for convalescence is typically much less than six months. One commenter questioned what "treated in a straightforward manner" means. A second commenter felt that a shorter convalescent period for Bartonellosis is not justified because convalescence is slow, and gradual normalization of red blood cell mass begins three to six weeks after onset of disease.

The six-month periods of convalescence for these conditions were established prior to the modern antibiotic era, and were appropriate at the time. However, with modern therapy, the course of these infectious diseases has dramatically improved. Scrub typhus deaths are rare, and convalescence is short ("Harrison's Principles of Internal Medicine" 760 (Jean D. Wilson, M.D., et al., eds., 12th ed. 1991)); with specific therapy, recovery is prompt and uneventful ("The Merck Manual" 173 16th ed. 1992). Similarly, treatment for Asiatic cholera is simple, and the condition is self-limited to a few days (Harrison, 632). Bartonellosis responds rapidly to antibiotics and the red blood cells stabilize in about six weeks (Harrison, 634). While the characteristic severe anemia that occurs in an individual with Bartonellosis may require time after treatment to resolve, three months is an adequate period of convalescence in the average person. We have therefore adopted the proposed provisions, which provide for a three-month convalescent evaluation for these conditions.

The previous schedule called for a 100 percent evaluation for leprosy (DC 6302) as active disease and for one year's convalescence. We proposed to remove the one-year period of convalescence. One commenter said that a convalescent period should be retained because of the serious nature of the disease, and another questioned whether there is a medical basis for the change.

On further consideration, VA agrees that a continued 100 percent evaluation