

of 96 hours without prior approval of the Captain of the Port.

(12) \* \* \*

(iii) No vessel may occupy this anchorage for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iii) No vessel may occupy this anchorage for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

\* \* \* \* \*

Dated: October 30, 2006.

**Timothy S. Sullivan,**

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

[FR Doc. E6-19314 Filed 11-15-06; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08-06-037]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to change the regulation governing the operation of the Illinois Central Railroad Drawbridge, Mile 579.9, Upper Mississippi River at Dubuque, Iowa. Under the proposed rule, the drawbridge would open on signal if at least 24 hours advance notice is given from 12:01 a.m., on December 15, 2006 until 8 a.m., on March 15, 2007. This would allow time for making upgrades to critical mechanical components and performing scheduled annual maintenance/repairs to the bridge and pier protection.

**DATES:** Comments and related material must reach the Coast Guard on or before December 18, 2006.

**ADDRESSES:** You may mail comments and related material to Commander, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832. Commander (dwb) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be

available for inspection or copying at room 2.107f in the Robert A. Young Federal Building, Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 269-2378.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08-06-037), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Eighth Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

On September 12, 2006, the Chicago, Central & Pacific Railroad requested a temporary change to the operation of the Illinois Central Railroad Drawbridge, across the Upper Mississippi River, Mile 579.9, at Dubuque, Iowa to open on signal if at least 24 hours advance notice is given to facilitate critical bridge repair and annual maintenance.

The Illinois Central Railroad Drawbridge navigation span has a vertical clearance of 19.9 feet above normal pool in the closed to navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted due to the reduced navigation in winter months. Presently, the draw opens on signal for passage of river traffic. The Chicago, Central & Pacific Railroad requested the drawbridge be permitted to remain closed-to-navigation from 12:01 a.m., December 15, 2006 until 8 a.m., March

15, 2007 unless 24 hours advance notice is given of the need to open. Winter conditions on the Upper Mississippi River coupled with the closure of Lock and Dam 11, Mile 583.0, Upper Mississippi River, at Dubuque, Iowa from January 2, 2007 until February 28, 2007 will preclude any significant navigation demands for the drawspan opening. The Illinois Central Railroad Drawbridge, Mile 579.9, Upper Mississippi River, is located just downstream from Lock and Dam 11. Performing maintenance on the bridge and pier protection during the winter, when the number of vessels likely to be impacted is minimal, is preferred to the bridge closure or advance notification requirements during the navigation season. This temporary change to the drawbridge's operation has been coordinated with the commercial waterway operators.

##### Discussion of Proposed Rule

The proposed temporary rule is to add a new paragraph to § 117.671. The drawbridge by regulation is to open on signal. This proposed rule would allow the drawbridge to open on signal if at least 24 hours advance notice is given from 12:01 a.m., on December 15, 2006 until 8 a.m., on March 15, 2007. This proposed rule will allow time for making upgrades to critical mechanical components and perform scheduled annual maintenance/repairs to the bridge and pier protection.

##### Regulatory Evaluation

The proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

The Coast Guard expects that this temporary change to operation of the Illinois Central Railroad Drawbridge will have minimal economic impact on commercial traffic operating on the Upper Mississippi River. This temporary change has been written in such a manner as to allow for minimal interruption of the drawbridge's regular operation.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a

substantial number of small entities. 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. This proposed rule will have a negligible impact on vessel traffic. The primary users of the Upper Mississippi River in Dubuque, Iowa are commercial towboat operators. With the onset of winter conditions, most activity on the Upper Mississippi River is curtailed and there are few, if any, significant navigation demands for opening the drawspan.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### **Assistance for Small Entities**

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 proposed rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 269-2378.

#### **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 will 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 will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Government 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 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.

#### **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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

#### **Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this 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 environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this proposed regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### **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; 33 CFR 1.05-1(g); Department of Homeland Security Delegation

No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From 12:01 a.m., December 15, 2006 until 8 a.m., March 15, 2007 in § 117.671 add new paragraph (c) to read as follows:

**§ 117.671 Upper Mississippi River.**

\* \* \* \* \*

(c) The Illinois Central Railroad Drawbridge, Mile 579.9, Upper Mississippi River at Dubuque, Iowa shall open on signal if at least 24 hours notice is given.

Dated: October 18, 2006.

**J.R. Whitehead,**

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

[FR Doc. E6-19311 Filed 11-15-06; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD08-06-013]

RIN 1625-AA09

**Drawbridge Operation Regulation; Illinois Waterway, Illinois**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Coast Guard has revised its proposal to change the operation of the Pekin Railroad Drawbridge, Mile 151.2, at Pekin, Illinois and the Chessie Railroad Drawbridge, Mile 254.1 at Seneca, Illinois across Illinois Waterway. The present regulation requires revision to reflect the actual procedures that have always been followed. The current regulation was intended to be temporary, for test purposes only, and was inadvertently permanently included. The revision would eliminate the "Specific Requirements" for remote operation and the bridge would continue to operate, as required by the Coast Guard, under the "General Requirements". In addition the Coast Guard proposes to change the regulation governing the operation of the Chessie Railroad Drawbridge across the Illinois Waterway, Mile 254.1, at Seneca, Illinois. The existing regulation requires the drawspan to open on signal. This change is necessary to reflect a change in operating procedure.

**DATES:** Comments and related material must reach the Coast Guard on or before January 16, 2007.

**ADDRESSES:** You may mail comments and related material to Commander, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832. Commander (dwb) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 2.107f in the Robert A. Young Federal Building, Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 269-2378.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08-06-013], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Eighth Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Regulatory History**

On June 26, 2006, we published a notice of proposed rulemaking (NPRM) titled Drawbridge Operation Regulation; Illinois Waterway, IL in the **Federal Register** (71 FR 36295). We received no comments on the proposed rule. No public hearing was requested, and none was held.

**Background and Purpose**

A test period to remotely operate the Pekin Railroad Drawbridge, Mile 151.2, across the Illinois Waterway was

proposed by the bridge owner and determined that remote operation was not feasible. The bridge owner withdrew the proposal and the Coast Guard required the continued on-site operation of the bridge. The bridge is not remotely operated. The bridge owner has always maintained an on-site bridge operator for the bridge. However, the temporary regulation allowing the test period was inadvertently published in 33 CFR 117, Subpart B.

This proposed rulemaking will correct the drawbridge operating regulations to reflect Coast Guard approved operating conditions presently adhered to by the bridge owner and waterway users.

33 CFR requires the Chessie Railroad Drawbridge, mile 254.1, Illinois Waterway at Seneca, Illinois to open on signal for the passage of vessels. Due to reduced train use, the bridge owner removed the bridgetender, maintains the draw span in the fully open position and allows train operators to close the bridge. This action was taken without proper Coast Guard notification or approval. The proposed rule would improve the navigation safety of bridge operations by establishing a method of operation and communication between vessels and bridge closure personnel.

**Discussion of Proposed Rule**

The rule proposed by this SNPRM includes two separate changes to existing regulation § 117.393. The first change would delete § 117.393(b), which requires remote operation of the Pekin Railroad Drawbridge. If the remote operation requirement is deleted, it will have no impact on river or rail traffic because the bridge will continue to be operated on-site and open on demand for passage of river traffic. Removing the regulation for remote operation will allow the bridge owner to not install additional equipment and to not operate the bridge from a remote location to meet the regulation.

The second change to § 117.393 would add a new paragraph (b) to § 117.393. The Chessie Railroad Drawbridge is currently maintained in the fully open position and train operators close the draw span to allow trains to pass. This proposed rule would improve the navigation safety of bridge operations by establishing a method of operation and communication between vessels and bridge closure personnel. This proposed rule will accurately depict how the bridge is operated.

**Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866,