

submitted written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

#### Drafting Information

The principal authors of these regulations are Sheila Ramaswamy and Anthony J. Marra, Office of the Associate Chief Counsel (International). However, other persons from the Office of Associate Chief Counsel (International) and the Treasury Department have participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 863(a) and 7805  
\* \* \*

**Par. 2.** Section 1.863–10 is added to read as follows:

#### § 1.863–10 Source of income from a qualified fails charge.

[The text of proposed § 1.863–10 is the same as the text of § 1.863–10T published elsewhere in this issue of the **Federal Register**].

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2010–30896 Filed 12–7–10; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2010–1029]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Fox River, Oshkosh, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish remote drawbridge operating procedures for the Canadian National Railway Bridge across the Fox River at Mile 55.72 at Oshkosh, Wisconsin. This

proposed rule is intended to establish standard bridge operating conditions for both vessel and train traffic while allowing the bridge to be remotely operated.

**DATES:** Comments and related material must reach the Coast Guard on or before January 7, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG–2010–1029 using any one of the following methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, U.S. Coast Guard; telephone 216–902–6085, e-mail [lee.d.soule@uscg.mil](mailto:lee.d.soule@uscg.mil), or fax 216–902–6088. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–1029), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or

hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rules” and insert “USCG–2010–1029” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2010–1029” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets

in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Basis and Purpose

The drawbridge owner, Canadian National Railway (CN RR), requested that the District Commander approve remote operation of the drawbridge in accordance with 33 CFR 117.42. The drawbridge has been remotely operated without specific authorization from the District Commander for approximately 3–4 years, and is currently required to open on signal year round. Vessel operators have recently informed the Coast Guard that the drawbridge formerly was left in the open-to-navigation position and only closed when a train was crossing, but this practice was no longer used and vessels have been experiencing unreasonable delays. The Coast Guard has determined that the bridge could continue to be remotely operated as long as it also provided for the reasonable needs of navigation. This rule is also necessary to comply with 33 CFR 117.42 by providing a description of the full operation of the remotely operated drawbridge. This bridge is a swing type railroad bridge that provides a horizontal clearance of 70 feet in each draw span. The vertical clearance is 6 feet in the closed position.

### Discussion of Proposed Rule

Between April 15 and October 15 each year, the proposed regulation would require the bridge to remain in the open-to-navigation position unless train traffic is crossing, then reopen once train traffic has passed. The bridge would also be required to maintain and operate a marine radiotelephone, along with equipment to visually monitor the waterway and communicate with vessels using all signaling methods described in 33 CFR 117.15. The proposed light and sound signals would provide vessels with a method of warning when the bridge is expected to either close for train traffic or reopen for vessel traffic without having to establish direct communication with the remote bridge operator. The proposed regulation also establishes a permanent winter operating schedule by requiring vessels to provide at least 12-hours

advance notice for a bridge opening during winter, or during the traditional non-boating season, between October 16 and April 14 each year.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

This 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. This determination is expected to improve intermodal transportation at the bridge crossing and does not exclude either vessel or train traffic.

### 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed regulation is expected to increase availability of the drawbridge for vessel traffic and potentially increase access by, and to, small entities on the waterway.

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 can 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. Lee D. Soule, Bridge Management Specialist, U. S. Coast Guard; telephone 216–902–6085, e-mail [lee.d.soule@uscg.mil](mailto:lee.d.soule@uscg.mil), or fax 216–902–6088. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### 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 (adjusted for inflation) 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 would not cause 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. 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 proposed rule under Department of Homeland Security Management Directive 023-01, and 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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

Bridges.

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; Department of Homeland Security Delegation No. 0170.1.

2. In § 117.1087 add paragraph (e) to read as follows:

#### § 117.1087 Fox River.

\* \* \* \* \*

(e) The draw of the Canadian National Bridge, mile 55.72, at Oshkosh, shall operate as follows:

(1) From April 15 to October 15 the draw will be remotely operated and shall remain in the open position for vessel traffic unless the following train sequence occurs; when a train is scheduled to cross the bridge, a flashing red light will be displayed when the bridge will close in 10 minutes, then a fixed red light when the bridge will close in 5 minutes, then a flashing red light and continuous ringing bell when the bridge will close in 1 minute, and during the closing sequence. After train traffic has crossed, and when the bridge again opens for vessel traffic, a flashing red light and continuous ringing bell will be displayed when the bridge will open in 1 minute, and during the opening sequence.

(2) From October 16 to April 14 the draw shall open on signal if at least a 12 hour advance notice is provided.

(3) Before the bridge opens or closes, and while the draw is in motion, the remote operator shall monitor waterway traffic by remote visual inspection to show the waterway is clear and it is safe to operate the draw. The remote operator shall also announce that the bridge is opening or closing on VHF-FM Marine Radiotelephone. The owners of the bridge shall maintain 2 board gauges in accordance with 33 CFR 118.160 of this chapter. The remote drawtender

may be contacted by mariners at anytime by radiotelephone or commercial phone number; this information shall be so posted on the bridge so that they are plainly visible to vessel operators approaching the up or downstream side of the bridge.

Dated: November 23, 2010.

**M.N. Parks,**

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

[FR Doc. 2010-30740 Filed 12-7-10; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2010-1030]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Duluth Ship Canal, Duluth-Superior Harbor, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a drawbridge opening schedule for the Duluth Aerial Lift Bridge for vessels under 300 gross tons. Scheduled drawbridge openings were requested by various local entities to help reduce traffic congestion near the drawbridge during the peak navigation and tourist season. The scheduled drawbridge openings are expected to improve traffic congestion in the area and enhance safety for all modes of transportation.

**DATES:** Comments and related material must reach the Coast Guard on or before January 7, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-1030 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

*http://www.regulations.gov.*

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

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