

that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

#### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

#### **List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 8, 2002.

**Vann Weaver,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 02-9233 Filed 4-15-02; 8:45 am]

**BILLING CODE 4310-05-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 117**

**[CGD08-02-035]**

**RIN 2115-AE47**

#### **Drawbridge Operation Regulation Change, St. Croix River, MN**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to amend the regulations governing four drawbridges across the St. Croix River by adding a notice requirement for openings during the winter season. This proposed rule would allow the owners of the drawbridges to reduce the number of hours drawtenders are required to be on site between midnight and 7 a.m. from mid-October to mid-December, when there are few requests for openings.

**DATES:** Comments must reach the Coast Guard on or before June 17, 2002.

**ADDRESSES:** Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD08-02-035 and are available for inspection or copying at room 2.107f

in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### **FOR FURTHER INFORMATION CONTACT:**

Roger K. Wiebusch, Bridge Administrator, at the address listed above or telephone (314) 539-3900, extension 378.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08-02-035), 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 if it 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 one 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**

The draws of the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16-61 Bridge, Mile 0.3, at Prescott, and the Union Pacific Railroad Bridge, Mile 17.3, at Hudson, open on signal; except that, from December 15 through March 31, the draws open on signal if at least 24-hours notice is given. Until the 1980s, the St. Croix River was extensively used for commercial navigation; however, over the past 20 years, the character of navigation on the river has changed from commercial towboats to mainly recreational and excursion boats. Except for its headwaters, the entire St. Croix River is included in the National Wild and Scenic River system. The Lower St. Croix River (between Taylor Falls and its confluence with the Upper Mississippi River at Prescott, WI) is within the "recreational" designated

area of the river. The demise of commercial barge markets and the push for preserving the scenic qualities of the St. Croix River have changed the type of navigation from commercial to recreation. Recreational traffic is heaviest during the summer months but falls off drastically with the seasonal change to fall. Recreational boating usually ceases by mid-October. Due to the high cost of bridge operations and the decrease of recreational boating in the fall, the Wisconsin Department of Transportation requested the Coast Guard change the regulation for the U.S. 16-61 bridge, Mile 0.3, at Prescott, to require 24-hour advance notice for opening from October 16 to March 31. Subsequently, due to the lack of bridge openings that have been requested from 11 p.m. to 7 a.m., the Burlington Northern Santa Fe Railroad requested a change to the regulation for the Burlington Northern Santa Fe Bridge, Mile 0.2, to open on signal from 7 a.m. to 11 p.m. and to open between midnight and 7 a.m., if the bridge was notified prior to 11 p.m. Due to the proximity of all St. Croix River drawbridges and the short length of the river, a review of the general drawbridge regulations for the St. Croix River was deemed appropriate.

An investigation was conducted for two separate actions; one for the 60-day extension of the 24-hour notification requirement from December 15 to October 15, and the other for restricting drawbridge openings between the hours of midnight and 7 a.m. Although the request was submitted by only one drawbridge owner, the approval would impact all drawbridges across the St. Croix River below Stillwater. Therefore the proposal was expanded to include the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16-61 Bridge, Mile 0.3, at Prescott, and the Union Pacific Railroad Bridge, Mile 17.3, at Hudson. The S36 Bridge, mile 23.4, at Stillwater, regulation was also reviewed, but that regulation already contained a 24-hour advance notice requirement for openings beginning on October 16. Data from the three bridges showed an overall 73 percent decrease in the number of requested bridge openings after October 15 due to the onset of wintry conditions and recreational boaters stowing their boats for the winter. The character of vessel activity on the Lower St. Croix River has changed from commercial navigation to recreational boating. This resulted in an 87 percent reduction in requests for drawbridge openings between the hours of midnight and 7 a.m. for the period April 1 to December 14.

The purpose of this proposed rulemaking would be to allow drawbridge owners to reduce the number of hour drawbridge tenders are on site. Since the number of requests for bridge openings from October 16 to March 31 and during 11 p.m. to 7 a.m. from April 1 to October 15 has drastically reduced over the recent past, the need for drawtenders to be on site during these times has also drastically reduced.

### Discussion of Proposed Rule

This proposed rulemaking would change the regulations governing the St. Croix River drawbridge operating requirements. The bridges that would be affected are the Burlington Northern Santa Fe Railroad Bridge, mile 0.2, the U.S. 16–61 bridge, mile 0.3, at Prescott, and the Union Pacific railroad bridge, mile 17.3, at Hudson. Currently these bridges open on signal from April 1 to December 14 and upon 24-hours advance notice from December 15 to March 31. This proposed change would require the bridges to operate as follows from April 1 to October 15: (1) 7 a.m. to midnight, open on signal and (2) midnight to 7 a.m., open on signal, if notification is given prior to 11 p.m. It would also extend the current period during which 24-hours advance notice is required by an additional 60 days. This advance notice is now required during the period of October 16 to March 31.

New subparagraph (3) for the S36 Bridge, mile 23.4, at Stillwater, would be added to existing paragraph (b) of 33 CFR 117.667 to require bridge openings as follows: (3) From October 16 through May 14, if at least 24 hours notice is given. The river is frozen during the winter months negating the necessity for an emergency provision during that time frame. The subparagraphs would add a section previously omitted and would provide an operating schedule for this bridge for the entire year.

The bridges are being renamed from the existing names of the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16–61 bridge, Mile 0.3, at Prescott, the Union Pacific railroad bridge, Mile 17.3, at Hudson, and the S36 Bridge, Mile 23.4, at Stillwater to the Burlington Northern Railroad Drawbridge, Mile 0.2, Prescott Highway Drawbridge, Mile 0.3, and the Hudson Railroad Drawbridge, Mile 17.3, and the Stillwater Highway Bridge, Mile 23.4, respectively. The reason for this change is to have the regulation reflect how the local bridge users actually refer to these bridges.

### Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of the Executive Order 12866 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 Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Implementing the proposed regulation would allow the owners of drawbridges the ability to reduce the number of hours drawtenders are required to be on site due to the infrequency of requests to open drawbridges between midnight and 7 a.m. and from mid-October to mid-December. Previous requests were authorized for drawbridges to remain closed to navigation to facilitate maintenance. This occurred without complaints from commercial or recreational vessel operators. The Stillwater Highway Drawbridge, Mile 23.4, requires 24-hour advance notification to open starting on October 16. This has been the operating schedule for many years and has not generated complaints from the waterway users despite the heavy recreational use in the area.

The proposed regulation change would not affect the present safe operation of bridges.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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.

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 (Public Law 104–121), we offer to assist small entities in understanding the proposed rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or believes he or she qualifies as a small entity and requires assistance with the provisions of this proposed rule may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 378.

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).

### Collection of Information

This proposed rule calls 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) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government’s having first provided the funds to pay those unfunded mandate costs. This proposed rule would not impose an unfunded mandate.

### 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 does not concern 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### 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

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2-

1, paragraph (32), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. Promulgation of changes to drawbridge regulations has been found not to have significant effect on the human environment. 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.

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. Sec. 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.

2. In § 117.667, paragraph (a) and paragraph (b), introductory text, are revised and a new paragraph (b)(3) is added to read as follows:

#### § 117.667 St. Croix River.

(a) The draws of the Burlington Northern Railroad Drawbridge, mile 0.2, Prescott Highway Drawbridge, mile 0.3, and the Hudson Railroad Drawbridge, mile 17.3, shall operate as follows:

(1) From April 1 to October 15:

(i) 7 a.m. to midnight, the draws shall open on signal;

(ii) Midnight to 7 a.m., the draws shall open on signal if notification is made prior to 11 p.m.,

(2) From October 16 through March 31, the draw shall open on signal if at least 24 hours notice is given.

(b) The draw of the Stillwater Highway Bridge, mile 23.4, shall open on signal as follows:

\* \* \* \* \*

(3) From October 16 through May 14, if at least 24 hours notice is given.

\* \* \* \* \*

Dated: April 2, 2002.

**Roy J. Casto,**

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

[FR Doc. 02–9108 Filed 4–15–02; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[COTP San Francisco Bay 02–003]

RIN 2115–AA97

### Safety Zone; Carquinez Strait, Vallejo and Crockett, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone in the navigable waters of the Carquinez Strait surrounding the construction site of the new U.S. Interstate 80 bridge (Alfred Zampa Memorial Bridge) over a 30-day period for approximately 6-hours per day. The purpose of this safety zone is to protect persons and vessels from hazards associated with bridge construction activities; specifically, those hazards associated with stringing cables across the Strait. The safety zone will temporarily prohibit usage of the Carquinez Strait waters surrounding the Alfred Zampa Memorial Bridge; specifically, no vessels will be permitted to pass beneath the bridge.

**DATES:** Comments and related material must reach the Coast Guard on or before May 16, 2002.

**ADDRESSES:** You may mail comments and related material to the Waterways Management Branch at the U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Building 14, Alameda, California 94501–5100, or deliver them to room 108 at the same address between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Waterways Management Branch of Marine Safety Office San Francisco Bay 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 U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Building 14, Room 108, Alameda, California 94501–5100 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ross Sargent, Chief, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–3073.

**SUPPLEMENTARY INFORMATION:**