

the scope of the engagement and the type and specificity of the advice sought by the client will be considered in determining whether a practitioner has failed to comply with this section. In the case of an opinion the practitioner knows or has reason to know will be used or referred to by a person other than the practitioner (or a person who is a member of, associated with, or employed by the practitioner's firm) in promoting, marketing or recommending to one or more taxpayers a partnership or other entity, investment plan or arrangement a significant purpose of which is the avoidance or evasion of any tax imposed by the Internal Revenue Code, the determination of whether a practitioner has failed to comply with this section will be made on the basis of a heightened standard of care because of the greater risk caused by the practitioner's lack of knowledge of the taxpayer's particular circumstances.

(b) *Effective date.* This section applies to written advice that is rendered after June 20, 2004.

#### § 10.38 Establishment of advisory committees.

(a) *Advisory committees.* To promote and maintain the public's confidence in tax advisors, the Director of the Office of Professional Responsibility is authorized to establish one or more advisory committees composed of at least five individuals authorized to practice before the Internal Revenue Service. The Director should ensure that membership of an advisory committee is balanced among those who practice as attorneys, accountants, and enrolled agents. Under procedures prescribed by the Director, an advisory committee may review and make general recommendations regarding professional standards or best practices for tax advisors, including whether hypothetical conduct would give rise to a violation of §§ 10.35 or 10.36.

(b) *Effective date.* This section applies after December 20, 2004.

■ **Par. 4.** Section 10.52 is revised to read as follows:

#### § 10.52 Violation of regulations.

(a) *Prohibited conduct.* A practitioner may be censured, suspended or disbarred from practice before the Internal Revenue Service for any of the following:

(1) Willfully violating any of the regulations (other than § 10.33) contained in this part; or

(2) Recklessly or through gross incompetence (within the meaning of § 10.51(l)) violating §§ 10.34, 10.35, 10.36 or 10.37.

(b) *Effective date.* This section applies after June 20, 2005.

■ **Par. 5.** Section 10.93 is revised to read as follows:

#### § 10.93 Effective date.

Except as otherwise provided in each section and subject to § 10.91, Part 10 is applicable on July 26, 2002.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement, Internal Revenue Service.*

Approved: December 8, 2004.

**Arnold I. Havens,**

*General Counsel, Department of the Treasury.*

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BILLING CODE 4830-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08-04-040]

RIN 1625-AA09

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulation governing the Clinton Railroad Drawbridge, across the Upper Mississippi River at Mile 518.0, at Clinton, Iowa. The drawbridge would open on signal if at least 24 hours advance notice is given from 7:30 a.m., on December 17, 2004, until 7:30 a.m. on March 1, 2005. This rule allows time for making upgrades to critical mechanical components and perform scheduled annual maintenance and repairs.

**DATES:** This rule is effective 7:30 a.m., December 17, 2004, until 7:30 a.m., March 1, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket [CGD08-04-040] and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Commander (obr), Eighth Coast Guard District, maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 539-3900, extension 2378.

## SUPPLEMENTARY INFORMATION:

### Regulatory History

On November 9, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois in the **Federal Register** (69 FR 64875). We received no comment letters on the proposed rule. No public meeting was requested, and none was held.

### Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. This drawbridge requires upgrades to critical mechanical components and annual maintenance that necessitate it to remain in the closed-to-navigation position from 7:30 a.m., December 17, 2004, until 7:30 a.m., March 1, 2005. Navigation on the waterway consists primarily of commercial tows and recreational watercraft that will not be significantly impacted due to the reduced navigation in winter months and due to the fact that the drawbridge will open upon 24 hours advanced notice. Thus, to keep the closure within the primary winter months this rule must go into effect by December 17, 2004.

### Background and Purpose

On September 7, 2004, the Union Pacific Railroad Company, requested a temporary change to the operation of the Clinton Railroad Drawbridge across the Upper Mississippi River, Mile 518.0, at Clinton, Iowa to open on signal if at least 24 hour advance notice is given to facilitate critical bridge repair and annual maintenance. Advance notice may be given by calling the Clinton Yardmaster's office at (563) 244-3204 at any time; or (563) 244-3269 weekdays between 7 a.m. and 3:30 p.m.; or Mr. Tomaz Gawronski, office (515) 263-4536 or cell phone (515) 229-2993.

The Clinton Railroad Drawbridge navigation span has a vertical clearance of 18.7 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 Union Pacific Railroad Company requested the drawbridge be permitted to remain closed-to-navigation from 7:30 a.m., December 17, 2004, until 7:30 a.m., March 1, 2005, unless 24 hours advance notice is given of the need to open.

Winter conditions on the Upper Mississippi River coupled with the closure of Rock Island Railroad & Highway Drawbridge, mile 482.9, Upper Mississippi River, at Rock Island, Illinois will preclude any significant navigation demands for the drawspan opening. The Clinton Railroad Drawbridge, mile 518.0, Upper Mississippi River is located upstream from the Rock Island Railroad & Highway Drawbridge. Performing maintenance on the bridge during the winter, when the number of vessels likely to be impacted is minimal, is preferred to 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 Comments and Changes

The Coast Guard received no comment letters. No changes will be made to this final rule.

#### Regulatory Evaluation

This 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 Clinton 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 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 rule would not have a significant economic impact on a substantial number of small entities.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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 1-800-REG-FAIR (1-800-734-3247).

#### Collection of Information

This 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 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 rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect 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 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 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

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.

#### Energy Effects

We have analyzed this 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 regulatory 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 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 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 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 amends 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 7:30 a.m., December 17, 2004, until 7:30 a.m., March 1, 2005, in § 117.671, add new paragraph (c) to read as follows:

**§ 117.671 Upper Mississippi River.**

\* \* \* \* \*

(c) The Clinton Railroad Drawbridge, mile 518.0 Upper Mississippi River, at Clinton, Iowa, shall open on signal if at least 24 hours notice is given. Notice may be given by calling the Clinton Yardmaster’s office at (563) 244–3204 at any time; or (563) 244–3269 weekdays between 7 a.m. and 3:30 p.m.; or Mr. Tomaz Gawronski, office (515) 263–4536 or cell phone (515) 229–2993.

Dated: December 10, 2004.

**R.F. Duncan,**

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

[FR Doc. 04–27820 Filed 12–15–04; 3:56 pm]

**BILLING CODE 4910–15–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[R03–OAR–2004–WV–0001; FRL–7850–6]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Withdrawal of Direct Final Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to an adverse comment, EPA is withdrawing the direct final rule to redesignate the City of Weirton PM10 nonattainment area to attainment and approval of the maintenance plan. In the direct final rule published on October 27, 2004 (69 FR 62591), we stated that if we received adverse comment by November 26, 2004, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. EPA will address the comment received in a subsequent final action based upon the proposed action also published on October 27, 2004 (69 FR 62637). EPA will not institute a second comment period on this action.

**EFFECTIVE DATE:** The direct final rule is withdrawn as of December 20, 2004.

**FOR FURTHER INFORMATION CONTACT:** Linda Miller, (215) 814–2068, or by e-mail at *miller.linda@epa.gov*.

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

Dated: December 13, 2004.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

Accordingly, the addition of § 52.2520 (c)(60) and the amendment in § 81.349 to the table for “West Virginia—PM<sub>10</sub>” revising the entry for Hancock and Brooke Counties (part): The City of

Weirton are withdrawn as of December 20, 2004.

[FR Doc. 04–27664 Filed 12–17–04; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[FRL–7848–7]

**National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of partial deletion of the Uravan Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 is publishing a direct final notice of partial deletion of 9.84 acres within the Uravan Superfund Site (Site), located in Montrose County, Colorado, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Colorado, through the Colorado Department of Public Health and the Environment because EPA has determined that all appropriate response actions, for the 9.84 acres including two historic structures, under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

**DATES:** This direct final deletion will be effective February 18, 2005. If adverse comments are received by January 19, 2005, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Comments may be mailed to: Rebecca Thomas, Remedial Project Manager (RPM), 8EPR–SR, *thomas.rebecca@epa.gov*, U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202, (303) 312–6552 or 1–800–227–8917, extension 6552.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repository