

in the development of voluntary and mandatory standards. The Laboratory coordinates and cooperates with other Federal agencies, private industry, and consumer interest groups by sharing engineering and scientific research, test, and evaluation expertise. Additionally, Corrective Action Plans, proposed by manufacturers to correct a product defect, are tested and evaluated to assure that the proposed changes adequately resolve the problem. Regulated products, such as children's products, sleepwear, and bicycle helmets, are routinely tested and evaluated for compliance with the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act. The Directorate is composed of the Mechanical Engineering Division, the Electrical Engineering Division (which includes flammable fabrics), and the Chemical Division. Overall, the directorate provides engineering, scientific, and other technical expertise to all entities within the Consumer Product Safety Commission.

Dated: January 25, 2006.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08-06-001]

RIN 1625-AA09

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is changing the regulation governing the Clinton Railroad Drawbridge, Mile 518.0, Upper Mississippi River at Clinton, Iowa. Under the rule, the drawbridge shall open on signal if at least 24 hours advance notice is given from 12:01 a.m., on January 20, 2006 until 9 a.m., on March 1, 2006. This rule allows time for making upgrades to critical mechanical components and to perform scheduled annual maintenance/repairs to the bridge.

**DATES:** This rule is effective from 12:01 a.m., January 20, 2006, until 9 a.m., March 1, 2006.

**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 [CGD08-06-001] 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

We did not publish a notice of proposed rulemaking (NPRM) for this regulation or give 30 days notice. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective in less than 30 days after publication in the **Federal Register**. Due to Hurricane Katrina and Hurricane Rita communications and documents were lost causing the inability to publish a NPRM and give 30 days notice because the maintenance has to begin during the winter months while river traffic is very minimal.

##### Background and Purpose

On June 10, 2005, 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 hours 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 (319) 244-3204 at any time; or (319) 244-3269 weekdays between 7 a.m. and 3:30 p.m.; or Mr. Tomaz Gawronski, office (515) 263-4536 or cell phone (515) 710-6829.

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 12:01 a.m., January 20, 2005 until 9 a.m., March 1,

2006 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 19, Mile 364.3, Upper Mississippi River, at Keokuk, Iowa will preclude any significant navigation demands for the drawspan opening. The Clinton Railroad Drawbridge, Mile 518.0, Upper Mississippi River, is located upstream from Lock and Dam 19. Performing maintenance on the bridge 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 Changes

This rule temporarily amends 33 CFR part 117, allowing the Clinton Railroad Drawbridge, mile 518.0, to change from an open on demand schedule to one requiring at least 24 hours advance notice.

##### 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 want to assist small entities in understanding this 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) 539-3900, extension 2378.

#### Collection of Information

This 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 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, Government 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 would not create an environmental risk to health or risk to safety that might 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 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 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 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; 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 January 20, 2005 until March 1, 2006, add temporary § 117.T399 to read as follows:

#### § 117.T399 Upper Mississippi River.

From 12:01 a.m., January 20, 2006 until 9 a.m., March 1, 2006 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 Clinton Yardmaster's office at (319) 244-3204 at anytime; or (319) 244-3269 weekdays between 7 a.m. and 3:30 p.m.; or Mr. Tomaz Gawronski, office (515) 263-4536 or cell phone (515) 710-6829.

Dated: January 20, 2006.

#### R.F. Duncan,

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

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