



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0561]

RIN 1625-AA09

Drawbridge Operation Regulation; Upper Mississippi River, IA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the draws of all bridges between Lock and Dam No. 14, mile 493.3, and Lock and Dam No. 10, mile 615.1, on the Upper Mississippi River by adding a 24-hour notice requirement for openings during the winter season. This revision allows the drawbridges to remain in the closed-to-navigation position for extended periods allowing the owners of the drawbridges to perform preventive maintenance that is essential to the safe operation of the drawbridges. This final rule will allow for flexibility in beginning these special operating schedules each year based on the arrival of winter weather.

DATES: This rule is effective on [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0561. In the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this

rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314-269-2378, e-mail Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive Order
FR	Federal Register
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On January 4, 2017, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Upper Mississippi River, IA in the Federal Register (82 FR 787). We received 0 comments on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. This rule changes the operating schedule for three bridges by revising the regulations governing the Upper Mississippi River drawbridge operating requirements under 33 CFR 117.671(a) to include these bridges. Currently, this special operating schedule applies to the draws of all bridges on the Upper Mississippi River from Lock and Dam No. 10, mile 615.1 to Lock and Dam No. 2, mile 815.2. The operating schedule changes will now include the draws of three additional bridges located between Lock and Dam No. 14, mile 493.3 to Lock and Dam No. 10, mile

615.1. This rule also changes the language of 117.671(a) and (b) to begin the special operating schedules on or about December 15 each year instead of on December 15 each year. A notice of enforcement will be issued each year indicating the start date for the special operating schedule. The bridges that will be included in this amended special local regulation are the Clinton Railroad Drawbridge, mile 518.0, at Clinton, IA, the Sabula Railroad Drawbridge, mile 535.0, at Sabula, IA, and the Illinois Central Railroad Drawbridge, mile 579.9, at Dubuque, IA. Currently these bridges open on signal. This change will require the bridges to open on signal if at least 24 hours advance notice is given beginning on or about December 15 and lasting through the last day of February each year.

Winter conditions, such as ice on the Upper Mississippi River, coupled with annual closure of various lock and dams between mile 493.3 and 615.1, will preclude any significant navigation demands for the drawspan openings. There are no alternate routes for vessels transiting this section of the Upper Mississippi River and the bridges cannot open in case of emergency during preventative maintenance operations; the drawbridges would open if at least 24 hours advance notice is given.

IV. Discussion of Final Rule

The Coast Guard provided a comment period of 60 days and no comments were received. No changes have been made to the proposed rule.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the availability for vessels to transit the bridge provided advanced notice is given. Moreover, the advanced notice requirement will be during the winter months, which is a time of year when vessel traffic is at its lowest as has been done in past years utilizing temporary deviations to provide for the change in bridge openings.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this rule. 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. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this final rule would not have a significant economic impact on any vessel owner or

operator.

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.

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. 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 the person listed in the FOR FURTHER INFORMATION CONTACT, above. 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. 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.).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this 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.

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

F. Environment

We have analyzed this 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. This rule simply promulgates the operating regulations or procedures for

drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction. A Memorandum for the Record (MWR) supporting this determination is available in the docket where indicated in the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

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; 33 CFR 1.05-1; Department of Homeland Security

Delegation No. 0170.1.

2. Revise § 117.671 to read as follows:

§ 117.671 Upper Mississippi River.

- (a) The draws of all bridges between Lock and Dam No. 14, mile 493.3, and Lock

and Dam No. 2, mile 815.2, shall open on signal; except that, from on or about December 15 through the last day of February, the draws shall open on signal if at least 24 hours notice is given.

(b) The draws of all bridges between Lock and Dam No. 2, mile 815.2 and Lock and Dam No. 1, mile 847.6, shall open on signal; except that, from on or about December 15 through the last day of February, the draws shall open on signal if at least 12 hours notice is given.

Date: October 13, 2017

P.F. Thomas,
Rear Admiral, U.S. Coast Guard
Commander, Eighth Coast Guard District
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