



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2019-0687]

RIN 1625-AA09

Drawbridge Operation Regulation; Illinois Waterway, Pearl, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to modify operations for the Kansas City Southern Railroad Drawbridge across the Illinois Waterway at Mile 43.2 near Pearl, Illinois by designating it as a remotely operated drawbridge. This proposed action is intended to maintain navigational safety while increasing operational efficiency of the Kansas City Southern Railroad Drawbridge. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-**2019-0687** using Federal e-Rulemaking Portal at <http://www.regulations.gov>.

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. Eric Washburn, Bridge Administrator, Western Rivers, (314) 269-2378, email Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

On March 09, 2019, Kansas City Southern requested approval to operate the Kansas City Southern Railroad Drawbridge remotely. A subsequent Coast Guard Remote Operations Case Report found no objections to the change from local waterway users, and recommended the change be forwarded for District Commander approval in accordance with 33 CFR 117.42.

The purpose of this rulemaking is to improve safety and operations for river and rail traffic as well as the workers who conduct the operations and improve the bridge operating efficiency.

III. Discussion of Proposed Rule

The Coast Guard is proposing to establish remote operating procedures for the Kansas City Southern Railroad Drawbridge across the Illinois Waterway at Mile 43.2 near Pearl, Illinois in 33 CFR 117.393. The draw span is currently

maintained in the fully open position and train operators close the draw span to allow trains to pass. This proposed rule would establish a method of remote operation and communication between vessels and bridge closure personnel that would improve the flow of marine traffic, and enhance safety by leveraging remote sensing units to prevent unexpected closures.

IV. Regulatory Analyses

We developed this proposed 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 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the location and effect of the rule. The proposed change to bridge operations will shift the bridge control point from an on-scene operator to a remotely located operator, but result in no change or increase in requirements for vessels seeking to navigate past the bridge.

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 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.

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 proposed 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 (Pub. L. 104-121), we want to assist small entities in understanding this proposed 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. 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.

C. 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.).

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 proposed 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 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, U.S. Coast Guard Environmental Planning Policy COMDTINST 5090.1 (series) and U.S. Coast Guard Environmental Planning Implementation Procedures (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f). We have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally this action is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures 5090.1. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov>

and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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; DHS Delegation No. 0170.1.

§ 117.393 Illinois Waterway

2. Amend § 117.393 by adding paragraph (e) to read as follows:

* * * * *

(e) The draw span of the Kansas City Southern Railroad Drawbridge, mile 43.2, at Pearl, Illinois, is operated by remote operator located in Kansas City, Missouri as follows:

(1) The draw is normally maintained in the fully open position, displaying green center span navigation lights to indicate the draw span is fully open.

(2) When rail traffic approaches the bridge, the remote operator located in Kansas City, Missouri, will scan the river for vessel traffic via video cameras mounted near and under the bridge. Once the remote operator has visually verified no vessel traffic is present, they will announce on VHF-FM Channel 16 the draw span will be lowering for rail traffic.

(3) If a vessel is approaching the bridge, the draw will remain open. The vessel shall contact the train operator on VHF-FM channel 16 or 14 and the remote operator shall keep the draw in the fully open position until the vessel has cleared the bridge.

(4) If no vessels are observed, the remote operator initiates a five minute warning period on VHF-FM radio channel 16 before closing the bridge. The remote operator will broadcast the following message: “The Kansas City Southern Railroad Bridge at Mile 43.2, Illinois River, will close to navigation in five minutes.” The announcement is repeated every minute counting down the time remaining until closure.

(5) At the end of the five minute warning period, and no vessels are approaching the bridge, the remote operator shall sound the siren for 30 seconds, activate the alternate flashing red light on top of the draw, then lower and lock the draw in place. Red lights continue to flash to indicate the draw is closed to navigation.

(6) During the lowering process a boat detection system will monitor immediately upstream, downstream, and under the bridge, if a vessel enters the detection area, the lowering will cease and the remote operator will be immediately notified that an obstruction is present.

(7) After rail traffic has cleared the bridge, the remote operator will raise the draw span back to the fully open to navigation position, lock the draw span in place, stop the red flashing lights, and ensure the draw lights are changed from red to green.

(8) Once fully reopened, an automated verbal announcement will be made via VHF-FM Channel 16 indicating the bridge is again open to vessel traffic. Mariners may contact the remote operator via radiotelephone on VHF-FM Channel 14, or by standard telephone calling 1(800) 892-6295.

Dated: December 10, 2019.

John P. Nadeau,

Rear Admiral, U.S. Coast Guard,

Eighth Coast Guard District Commander.

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