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Joseph H. Grant,

Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08-04-033]

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 Rock Island Railroad & Highway Drawbridge, across the Upper Mississippi River at Mile 482.9, at Rock Island, Illinois. The drawbridge need not open for river traffic and may remain in the closed-to-navigation position from 7 a.m., December 15, 2004, until 8 a.m., March 15, 2005. This rule allows time for making upgrades to critical mechanical components and perform scheduled annual maintenance/repairs.

DATES: This rule is effective 7 a.m., December 15, 2004, until 8 a.m., March 15, 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 [CGD08-04-033] 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 October 21, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois in the **Federal Register** (69 FR 61770). 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 critical repairs and annual maintenance that necessitate it to remain in the closed-to-navigation position for 89 consecutive days. 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. Thus, it is in the public's interest to complete these repairs during the winter months. To keep the closure within the primary winter months this rule must go into effect by December 15, 2004. Additionally, the closure dates were included in the NPRM, and no comments were received objecting to the dates.

Background and Purpose

On August 12, 2004, the Department of Army, Rock Island Arsenal, requested a temporary change to the operation of the Rock Island Railroad & Highway Drawbridge across the Upper Mississippi River, Mile 482.9, at Rock Island, Illinois to allow the drawbridge to remain in the closed-to-navigation position for 89 consecutive days for critical repairs and annual maintenance. 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 Rock Island Arsenal requested the drawbridge be permitted to remain closed-to-navigation from 7 a.m., December 15, 2004, until 8 a.m., March 15, 2005.

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 Rock Island Railroad & Highway 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.

This proposed rule will have a negligible impact on vessel traffic. The primary users of the Upper Mississippi River in Rock Island, Illinois are commercial towboat operators. With the onset of winter conditions most activity on the Upper Mississippi River is curtailed and there are few, if any, significant navigation demands for opening the draw span.

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 a.m., December 15, 2004, until 8 a.m., March 15, 2005, temporarily add new § 117.T394, to read as follows:

§ 117.T394 Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, mile 482.9, at Rock Island, Illinois, need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: December 3, 2004.

R.F. Duncan,

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

[FR Doc. 04–27471 Filed 12–14–04; 8:45 am]

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095–AB41

Records Management; Unscheduled Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is revising our regulations to allow unscheduled records to be transferred to records storage facilities. These changes will allow agencies to transfer unscheduled records in a timely manner.

DATES: This rule is effective January 14, 2005.

FOR FURTHER INFORMATION CONTACT: Cheryl Stadel-Bevans at telephone number (301) 837–3021 or fax number (301) 837–0319.

SUPPLEMENTARY INFORMATION: NARA published a proposed rule on September 17, 2004, at 69 FR 56015, for a 60-day public comment period. We received two comments, both from Federal agencies. One comment expressed no concerns about the proposed rule. The second comment supported the changes