

format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Ninth Coast Guard District, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Canadian Pacific Railway bridge at mile 1.74 over Burnham Canal is a swing type bridge with a vertical clearance of approximately eight feet. In accordance with 33 CFR 117.1093, it is currently required to open for vessels if at least two-hours advance notice is provided prior to passing. Canadian Pacific Railway requested the Coast Guard allow the bridge to be maintained in the closed to navigation position since there have been no requests from vessels to open the bridge since June 13, 1997. There are no active marine facilities along the canal, and the area in Milwaukee Harbor where the bridge is located is part of a city re-development project. The City of Milwaukee Commissioner of Public Works and Commissioner of City Development offices have notified Canadian Pacific Railway in writing that they support this action.

Burnham Canal is a federal waterway. The waterway is reportedly no longer actively maintained by the Corps of Engineers. This rulemaking would allow the bridge to be untended and maintained in the closed to navigation position as per 33 CFR 117.39. However, the Coast Guard will retain the authority, should conditions make such an action necessary, to order the bridge owner to restore the bridge to an operable condition within 12 months of notification from Commander, Ninth Coast Guard District.

In addition to the regulation for the railroad bridge, the current regulation refers to "all other bridges across the Burnham Canal". The only other bridge on the canal that falls within the jurisdiction of the Coast Guard Bridge Administration Program is the Interstate 94 bridge at mile 1.79, which is a fixed bridge, and should not be referred to in the drawbridge regulations. Therefore,

the Coast Guard proposes removing this section from 33 CFR 117.1093.

Discussion of Proposed Rule

This proposed rule will allow the railroad bridge to remain closed, as it has been, and still be in compliance with Coast Guard requirements. With no requests to open the bridge since 1997, accordingly there is arguably no need and no known effects on navigation if this bridge is allowed to remain closed. If conditions change and commercial navigation resumes on Burnham Canal, the Coast Guard will require the railroad to restore the bridge to operation within 12 months.

An additional change that would result from this proposed rule is the elimination of a section of a drawbridge regulation that is obsolete. In addition to the Canadian Pacific bridge, only the I-94 bridge crosses Burnham Canal. This is a hi-level fixed bridge that does not require drawbridge regulations.

Regulatory Evaluation

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Our preliminary investigation revealed no need for the bridge to be operable since 1997, with no vessels desiring an opening of the bridge. The owners of the land adjacent to the canal do not currently have plans to use the land for marine or commercial purposes. As stated, if these conditions were to change, then the bridge would be required to be operational again within 12 months of notification from the Coast Guard.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

With no requests to open the bridge since 1997, the Coast Guard is unaware of any entities that may be affected by this proposed rule. If the bridge remains closed, only vessels that require less than eight feet vertical clearance may pass, which potentially could affect some entities. If this condition changes and there is a future need for greater clearances, the Coast Guard will require the bridge to be made operational again.

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.

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 proposed rule so that they can 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 the Bridge Administration Branch, Ninth Coast Guard District, at the address above.

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.).

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 proposed 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