

Administrator, (314) 539-3900, extension 2378.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing an NPRM

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule is being promulgated without an NPRM because the limited affect on vessel traffic makes notice and comment unnecessary. Maintenance on the bridge will not begin until after the closure of Lock 22 on the Mississippi River. After that time, only commercial vessels left in the pool above Lock 22 will be able to transit through the bridge. Both the bridge and lock closure recur at the same time each year, and local vessel operators plan for the closures in advance. Prompt publication of this rule is also necessary to protect the public from safety hazards associated with conducting maintenance on the bridge.

Background and Purpose

On September 17, 2003, the Department of the Army, Rock Island Arsenal, requested a temporary change to the operation of the Rock Island Railroad and 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 from 7:30 a.m., December 15, 2003, until 7:30 a.m., March 15, 2004. Department of the Army, Rock Island Arsenal, requested that the drawbridge remain closed to navigation to allow the bridge owner time for preventive maintenance that is essential to the continued safe operation of the drawbridge.

The Rock Island Railroad and Highway Drawbridge has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draw opens on signal for passage of river traffic. Winter freezing of the Upper Mississippi River coupled with the closure of Army Corps of Engineer's Lock No. 22 (Mile 301.2 UMR) until 7:30 a.m. March 15, 2004 will reduce any significant navigation demands for the drawspan opening. The Rock Island Railroad & Highway Drawbridge, Mile 482.9, Upper Mississippi River, is located upstream from Lock 22. Performing maintenance on the bridge during the winter when the number of vessels likely to be impacted is minimal is preferred to restricting vessel traffic

during the commercial navigation season.

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).

Because vessel traffic in the area of Rock Island, Illinois will be greatly reduced by winter icing of the Upper Mississippi River and the closure of Lock 22, it is expected that this rule will have minimal economic or budgetary effects on the local community.

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 temporary 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 on the Upper Mississippi River coupled with the closure of Army Corps of Engineers' Lock No. 22 (Mile 301.2 UMR) until March 15, 2004, there will be few, if any, significant navigation demands for the drawspan opening.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will 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 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard

District, Bridge Branch, at (314) 539-3900, extension 2378.

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).

Collection of Information

This rule contains 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 this rule 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 regulation 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 or \$100,000,000 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.

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