

Baltimore Transportation Management Center shall open on signal for the passage of vessels when a request to open is given.

(2) The draw of the bridge shall not be operated by the controller at the Transportation Management Center office in the event of failure or obstruction of the video cameras, audio system, or phone lines. In these situations, a bridge tender must be called and be on-site within 30 minutes to operate the bridge on-site.

(3) The draw of the bridge must begin opening within 5 minutes of the vehicular and pedestrian traffic clearing the bridge, except as provided in 33 CFR 117.31(b).

(4) When vehicular and pedestrian traffic has cleared, a horn will sound one prolonged blast followed by one short blast to warn of bridge movement. The channel traffic lights will flash red continually to indicate that the Bridge is moving to the full open position for vessels. Once the bridge is in the fully open position, the bridge channel traffic lights will turn and remain green.

(5) Before the span begins to close, the horn will sound five short blasts and an audio voice-warning device will announce bridge movement. The channel traffic lights will then continually flash red until the bridge is seated and locked down to vessels.

(6) The owners of the bridge shall provide and keep in good legible condition two board gauges painted white with black figures not less than six inches high to indicate the vertical clearance under the closed draw at all stages of the tide. The gauges shall be placed on the bridge so that they are plainly visible to the operator of any vessel approaching the bridge from either upstream or downstream.

(b) The draw of the I695 Bridge, mile 1.0 at Baltimore, shall open on signal if at least a one-hour notice is given to the Maryland Transportation Authority in Baltimore.

Dated: May 14, 2010.

**Wayne E. Justice,**

*Rear Admiral, United States Coast Guard,  
Commander, Fifth Coast Guard District.*

[FR Doc. 2010-13119 Filed 6-1-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2010-0228]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Arkansas Waterway, Little Rock, AR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the operating procedures on the Baring Cross Railroad Drawbridge across the Arkansas Waterway at mile 119.6 at Little Rock, AR, so that vessel operators will contact the remote drawbridge operator via microphone keying four times within five seconds on VHF-FM Channel 13 when requesting a draw opening. This keying will activate an indicator on the remote drawbridge operator's console and send an acknowledgement tone back to the vessel. The remote drawbridge operator would then establish normal verbal radio communications. The intent is to isolate and differentiate the vessel operator radio communications from the railroad communications that the remote drawbridge operator receives, thus ensuring that vessel calls receive immediate attention.

**DATES:** Comments and related material must reach the Coast Guard on or before August 2, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-0228 using any one of the following four methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. 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 Management Specialist, Eighth Coast Guard District, Bridge Branch; telephone 314-269-2378, e-mail [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG-2010-0228), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2010-0228" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during

the comment period and may change the rule based on your comments.

### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2010-0228" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain 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 Arkansas Waterway is part of the McClellan-Kerr Arkansas River Navigation System. This system rises in the vicinity of Catoosa, OK and embraces improved natural waterways and a canal to empty into the Lower Mississippi River in southeast Arkansas. The Arkansas Waterway drawbridge operation regulations contained in 33 CFR 117.123(b) state that the draw of the Baring Cross Railroad Drawbridge, mile 119.6, at Little Rock, AR is maintained in the closed position and is remotely operated. Vessels requesting an opening shall establish contact by radiotelephone with the remote drawbridge operator on VHF-FM Channel 13 in Omaha, NE. In order to better differentiate between vessel and land traffic for the remote drawbridge operator, Union Pacific has requested

that this drawbridge be operated similarly to how another Union Pacific-owned drawbridge is operated, the Rob Roy Drawbridge, mile 67.4 on the Arkansas Waterway near Pine Bluff, AR where vessels key their microphone four times in five seconds in order to initiate contact with the remote drawbridge operator. The same method would be enacted at the Baring Cross Railroad Drawbridge. Vessel operators would key their microphones four times in five seconds and would receive an acknowledgement tone from the remote drawbridge operator stationed at the Union Pacific Harriman Center in Omaha, NE. The keying-in initiates an indicator on the remote drawbridge operator's console and the remote drawbridge operator will then establish normal verbal radio communications on VHF-FM Channel 13. The Coast Guard met with Union Pacific personnel at the Harriman Center to discuss the proposed changes. In addition, the Coast Guard did a test at the Harriman Center to witness how communications would work and how the console is monitored. The Coast Guard has determined that this regulatory change would improve communications between the remote drawbridge operator and vessel operators and reduce delays due to missed calls by isolating vessel operator contacts from railroad contacts at the Harriman Center.

### Discussion of Proposed Rule

The proposed changes to 33 CFR 117.123(b)(1) and (2) should enhance communications while reducing the number of missed calls and draw opening delays at the Baring Cross Railroad Drawbridge.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

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.

We expect the economic impact of this proposed rule on commercial traffic operating on the Arkansas Waterway to be so minimal that a full Regulatory Evaluation is unnecessary. The operating procedures are already in

place at a different bridge on the same waterway and vessel operators are accustomed to the procedures.

### 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. This proposed rule is neutral to all business entities since it only alters the initial contact between vessels and the drawbridge operator and the Baring Cross Railroad Drawbridge is still required to open on demand for vessels.

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 (Pub. L. 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 Mr. Eric Washburn, Bridge Management Specialist, Eighth Coast Guard District, Bridge Branch, at 314-269-2378. 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.

### 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 State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,00 (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 rule elsewhere in this preamble.

#### *Taking of Private Property*

This proposed rule would not effect 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### *Indian Tribal Governments*

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.

#### *Energy Effects*

We have analyzed this proposed 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 energy 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### *Environment*

We have analyzed this proposed 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 because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **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; Department of Homeland Security Delegation No. 0170.1.

2. In § 117.123, revise paragraphs(b)(1) and (b)(2) to read as follows:

#### **§ 117.123 Arkansas Waterway.**

\* \* \* \* \*

(b) \* \* \*

(1) *Normal Flow Procedures.* Any vessel which requires an opening of the draw of this bridge shall establish contact by radiotelephone with the remote drawbridge operator on VHF–FM Channel 13 in Omaha, NE. To establish contact, the vessel shall key the radio microphone four times in five seconds and listen for an acknowledgement tone. The remote drawbridge operator will then establish normal verbal radio communications on VHF–FM Channel 13 and advise the vessel whether the requested span can be immediately opened and will maintain constant contact with the vessel until the requested span has opened and the vessel passage has been completed. The bridge is equipped with a Photoelectric Boat Detection System to prevent the span from lowering if there is an obstruction under the span. If the drawbridge cannot be opened immediately, the remote drawbridge operator will notify the calling vessel and provide an estimated time for a drawbridge opening.

(2) *High Velocity Flow Procedures.* The area from mile 118.2 to mile 125.4 is a regulated navigation area as described in § 165.817. During periods of high velocity flow, which is defined as a flow rate of 70,000 cubic feet per second or greater at the Murray Lock and Dam, mile 125.4, downbound vessels which require that the draw of this bridge be opened for unimpeded passage shall contact the remote drawbridge operator as described above in § 117.123(b)(1) either before departing Murray Lock and Dam or before departing the mooring cells at mile 121.5 to ensure that the Baring Cross Railroad Drawbridge is opened. The remote drawbridge operator shall immediately respond to the vessel's contact, ensure that the drawbridge is open for passage, and ensure that it remains in the open position until the downbound vessel has passed through. If it cannot be opened immediately for unimpeded passage in accordance with § 165.817, the remote drawbridge operator will immediately notify the downbound vessel and provide an estimated time for a drawbridge opening. Upbound vessels shall request openings in accordance with the normal flow procedures as set forth above in

§ 117.123(b)(1). The remote drawbridge operator shall keep all approaching vessels informed of the position of the drawbridge span.

\* \* \* \* \*

Dated: May 10, 2010.

**James E. Tunstall,**

*Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist. Acting.*

[FR Doc. 2010-13121 Filed 6-1-10; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0747]

RIN 1625-AA11

#### Regulated Navigation Area; Thea Foss and Wheeler-Osgood Waterways EPA Superfund Cleanup Site, Commencement Bay, Tacoma, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking; request for comments.

**SUMMARY:** The Coast Guard is revising its proposed rule that would establish a permanent regulated navigation area (RNA) on portions of the Thea Foss and Wheeler-Osgood Waterways in Commencement Bay, Tacoma, Washington. The RNA would protect the seabed in portions of those waterways that are subject to the U.S. Environmental Protection Agency's (EPA's) Commencement Bay Nearshore/Tideflats superfund cleanup remediation efforts. To more effectively protect those efforts, the Coast Guard is revising the proposed rule by slightly expanding the boundaries of the proposed RNA.

**DATES:** Comments and related material must be received by the Coast Guard on or before August 2, 2010. Requests for public meetings must be received by the Coast Guard on or before July 2, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2008-0747 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. 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 ENS Ashley Wanzer, Waterways Management, Sector Seattle, Coast Guard; telephone 206-217-6175, e-mail [SectorSeattleWWM@uscg.mil](mailto:SectorSeattleWWM@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0747), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the

"Document Type" drop down menu select "Proposed Rule" and insert "USCG-2008-0747" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2008-0747" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before July 2, 2010 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

##### Regulatory Information

The Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Regulated Navigation Area; Thea Foss and Wheeler-Osgood Waterways EPA