

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 the 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. Revise § 117.407 to read as follows:

#### § 117.407 Missouri River.

See § 117.691, Missouri River listed under Nebraska.

■ 3. Revise § 117.411 to read as follows:

#### § 117.411 Missouri River.

The draws of the bridges across the Missouri River shall open on signal; except during the winter season

between the date of closure and the date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24 hours advance notice is given.

■ 4. Revise § 117.687 to read as follows:

#### § 117.687 Missouri River.

The draws of the bridges across the Missouri River shall open on signal; except during the winter season between the date of closure and date of opening of the commercial navigation season as published by the Army Corps of Engineers, the draws need not open unless at least 24 hours advance notice is given.

Dated: October 25, 2006.

**J.R. Whitehead,**

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

[FR Doc. E6–19455 Filed 11–16–06; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08–06–021]

RIN 1625–AA09

#### Drawbridge Operation Regulation; St. Croix River, Prescott, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is changing the regulation governing the Prescott Highway Bridge, across the St. Croix River at Mile 0.3, at Prescott, Wisconsin. Under the rule, the drawbridge need not open for river traffic and may remain in the closed-to-navigation position from November 1, 2006 to April 1, 2007. This rule allows the bridge owners to make necessary repairs to the bridge.

**DATES:** The rule is effective November 1, 2006 to April 1, 2007.

**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 docket [CGD08–06–021] 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 (dwb), Eighth Coast Guard District, Bridge Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On August 21, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; St. Croix River, Prescott, WI in the **Federal Register** (71 FR 48498). We received no comment letters on the proposed rule. No public hearing was requested, and none was held.

#### Background and Purpose

On March 26, 2005, the Wisconsin Department of Transportation requested a temporary change to the operation of the Prescott Highway Bridge across the St. Croix River, Mile 0.3, at Prescott, Wisconsin, to allow the drawbridge to remain in the closed-to-navigation position for a 5-month period while the electrical and hydraulic systems are overhauled. Navigation on the waterway consists of both commercial (excursion boat) and recreational watercraft, which may be minimally impacted by the closure period. Currently, the draw opens on signal for the passage of river traffic from April 1 to October 31, 8 a.m. to midnight, except that from midnight to 8 a.m. the draw shall open on signal if notification is made prior to 11 p.m. From November 1 through March 31, the draw shall open on signal if at least 24 hours notice is given. The Wisconsin Department of Transportation requested the drawbridge be permitted to remain closed to navigation from November 1, 2006 to April 1, 2007.

#### Discussion of Comments and Changes

The Coast Guard received no comment letters. No changes were 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 this temporary change to the operation of the Prescott Highway Bridge to have minimal economic impact on commercial traffic operating on the St. Croix River such that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary.

This temporary change will cause minimal interruption of the drawbridge's regular operation, since the change is only in effect during the winter months while the river is frozen.

### 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.

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. The rule would be in effect for 5 months during the early winter months when the river is frozen over and navigation is practically at a standstill. The Coast Guard expects the impact of this action to be minimal.

### 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 this rule so that they could better evaluate its effects on them and participate in the rulemaking. 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 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 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 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 the National Environmental Policy Act of 1969 (NEPA) (14 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.

■ 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 November 1, 2006, to April 1, 2007, in § 117.667, suspend paragraph (a) and add paragraphs (d) and (e) to read as follows:

**§ 117.667 St. Croix River.**

\* \* \* \* \*

(d) The draws of the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, and the Hudson Railroad Bridge, Mile 17.3, shall operate as follows:

(1) From April 1 to October 31:

(i) 8 a.m. to midnight, the draws shall open on signal;

(ii) Midnight to 8 a.m., the draws shall open on signal if notification is made prior to 11 p.m.,

(2) From November 1 through March 31, the draw shall open on signal if at least 24 hours notice is given.

(e) The draw of the Prescott Highway Bridge, Mile 0.3, need not open for river traffic and may be maintained in the closed-to-navigation position from November 1, 2006 to April 1, 2007.

Dated: October 23, 2006.

**J.R. Whitehead,**

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

[FR Doc. E6–19456 Filed 11–16–06; 8:45 am]

**BILLING CODE 4910–15–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket No. 04–186 and 02–380; FCC 06–156]

### Unlicensed Operation in the TV Broadcast Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allows low power devices to operate on unused television channels in locations where such operations will not result in harmful interference to TV and other authorized services. The Commission believes that this plan will provide for more efficient and effective use of the TV spectrum and will significantly benefit the public by allowing the development of new and innovative types of devices and services for businesses and consumers, without disrupting television and other authorized services using the TV bands.

**DATES:** Effective December 18, 2006.

### FOR FURTHER INFORMATION CONTACT:

Hugh Van Tuyl, Office of Engineering and Technology, (202) 418–7506, e-mail [Hugh.VanTuyl@fcc.gov](mailto:Hugh.VanTuyl@fcc.gov), or Alan Stillwell, Office of Engineering and Technology (202) 418–2925, e-mail [Alan.Stillwell@fcc.gov](mailto:Alan.Stillwell@fcc.gov), TTY (202) 418–2989.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *First Report and Order*, ET Docket No. 04–186 and ET Docket No. 02–380, FCC 06–156, adopted October 12, 2006, and released October 18, 2006. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

### Summary of the Report and Order

1. On May 13, 2004, the Commission adopted a *Notice of Proposed Rule Making* (NPRM), 69 FR 34103, June 18, 2004, in this proceeding in which it proposed to allow unlicensed operation in the TV bands at locations where frequencies are not in use by licensed services. To ensure that no harmful interference to TV stations and other authorized users of the spectrum will occur, the Commission proposed to define when a TV channel is unused and to require unlicensed devices to incorporate “smart radio” features to identify the unused TV channels in the area where they are located. For the purpose of establishing a plan for minimizing interference, the Commission proposed to classify unlicensed broadband devices to be used in the TV bands into two general functional categories. The first category would consist of lower power “personal/portable” unlicensed devices, such as Wi-Fi like cards in laptop computers or wireless in-home local area networks (LANs). The second category would consist of higher power “fixed/access” unlicensed devices that are generally operated from a fixed location and may be used to provide a commercial service such as wireless broadband Internet access. The Commission proposed that fixed/access devices incorporate a geo-location method such as a Global Positioning System (GPS) receiver or be

professionally installed, and that they must access a database to identify vacant channels at their location. It proposed to require that personal/portable devices operate only when they receive a control signal from a source such as an FM or TV station that identifies the vacant TV channels in that particular area. The Commission also sought comment on the use of spectrum sensing to identify vacant TV channels, but did not propose any specific technical criteria for spectrum sensing.

2. In the *First Report and Order*, the Commission takes a number of important first steps towards allowing the introduction of new low power devices in the broadcast television spectrum (TV bands) on channels/frequencies that are not being used for authorized services (hereinafter referred to as “TV band devices”). The goal in this proceeding is to allow such devices to operate on unused television channels in locations where such operations will not result in harmful interference to TV and other authorized services. The Commission believes that this plan will provide for more efficient and effective use of the TV spectrum and will significantly benefit the public by allowing the development of new and innovative types of devices and services for businesses and consumers, without disrupting television and other authorized services using the TV bands. Because transmissions in the TV band are subject to less propagation attenuation than transmissions in other bands where lower power operations are permitted (such as unlicensed operations in the 2.4 GHz band), operations in the TV bands can benefit a wide range of service providers and consumers by improving the service range of wireless operations, thereby allowing operators to reach new customers. While there will be significant benefits to the public from its actions, the Commission recognizes that it must balance these benefits with the need to protect authorized services in the TV bands from harmful interference.

3. The Commission also recognizes the importance of conducting tests to ensure that whatever standards are ultimately adopted for TV band devices will protect incumbent radio services from harmful interference. Given the complex and novel sharing issues presented here, it intends to conduct several types of testing, and also encourages interested parties to conduct tests and submit their results into the record of this proceeding. Interested parties that conduct their own tests for the record should provide a test plan that explains in detail the assumptions used and the reasons supporting them.