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Joshua Gotbaum,

Director, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2010-1029]

RIN 1625-AA09

Drawbridge Operation Regulations; Fox River, Oshkosh, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking (NPRM) concerning the establishment of remote drawbridge operating procedures for the Canadian National Railway Bridge across the Fox River at Mile 55.72 at Oshkosh, Wisconsin. After careful consideration of the comments from all parties it was determined to be in the best interest of navigation to withdraw the NPRM.

DATES: The notice of proposed rulemaking published December 8, 2010, at 75 FR 76322, is withdrawn on March 11, 2011.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2010-1029 in the "Keyword" box and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, U.S. Coast Guard; telephone 216-902-6085, e-mail lee.d.soule@uscg.mil, or fax 216-902-6088. If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 2010, we published an NPRM entitled Drawbridge Operation Regulation; Fox River, Oshkosh, WI. in the **Federal Register** (75 FR 76322). The rulemaking concerned the request by the drawbridge owner, Canadian National Railway (CN RR), for the District Commander to approve remote operation of the drawbridge in accordance with 33 CFR 117.42. The drawbridge has been remotely operated without specific authorization from the District Commander for approximately 3-4 years, and is currently required to open on signal year round. Vessel operators have recently informed the Coast Guard that the drawbridge was formerly left in the open-to-navigation position and only closed when a train was crossing, but this practice was no longer used and vessels were reporting unreasonable delays, including no response from the remote bridge operator to signals for openings, and difficulties establishing communications with the remote operator. During the summer of 2010 the U.S. Coast Guard met with CN RR officials and developed the operating regulation proposed in the NPRM, including a set of visual warning signals to provide adequate warning to vessels that the railroad bridge was about to move from the open-to-navigation position to the closed-to-navigation position. Between April 15 and October 15 each year, the proposed regulation would require the bridge to remain in the open-to-navigation position unless train traffic is crossing, then reopen once train traffic has passed. The proposed light and sound signals would provide vessels with a method of warning when the bridge is expected to either close for train traffic or reopen for vessel traffic without having to establish direct communication with the remote bridge operator. The bridge would also be required to maintain and operate a marine radiotelephone, along with the equipment to visually monitor the waterway and communicate with vessels using all signaling methods described in 33 CFR 117.15. The proposed regulation also would have established a permanent winter operating schedule by requiring vessels to provide at least 12 hours advance notice for a bridge opening during winter, or during the traditional non-boating season, between approximately October 16 and April 14 each year.

Withdrawal

The Coast Guard received four comments regarding the NPRM, two that were successfully received by the Docket Management Facility that were negative and two received by direct emails that were positive.

Both negative comments characterized the proposed 10-minute advance visual warning method to vessel operators as a required 10-minute delay for trains, resulting in slowed or stopped trains, blockages of City of Oshkosh streets, and impacts to emergency response providers. The two negative comments also suggested a 2-minute warning method for vessels. The NPRM never suggested or implied any change to train operations, or that trains must change speed or stop and wait 10 minutes on either bridge approach, or on City streets. Among the positive comments to the NPRM the local marine law enforcement entity stated it is not uncommon for ten to twenty vessels to be waiting for a bridge opening on weekends and holidays. For public safety reasons the area around the bridge is a county regulated slow no-wake speed zone for all vessels and the suggested 2-minute warning would not provide adequate warning before the span transitioned between the open and closed positions.

The Coast Guard is responsible for enforcement of the federal drawbridge regulations in 33 CFR part 117. Any decision by the Coast Guard to authorize remote operations or promulgate a drawbridge operation regulation must ensure that the proposed action provides for the safety and reasonable needs of navigation. After careful consideration of the comments from all parties it is determined to be in the best interest of navigation to withdraw the proposed rule. The bridge will be required to be manned by drawtenders and to conform to the general requirements and regulations found in Subpart A of Part 117 of Title 33 of the Code of Federal Regulations.

Authority

This action is taken under the authority of 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

Dated: February 8, 2011.

M.N. Parks,

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

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