

in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$114,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1310

Drug traffic control, List I and List II chemicals, Reporting and recordkeeping requirements.

For reasons set out above, it is proposed that 21 CFR part 1310 be amended as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES [AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b), 890.

2. Section 1310.02 is proposed to be amended by adding a new paragraph (b)(12) to read as follows:

§ 1310.02 Substances covered.

(b) * * * (12) Sodium Permanganate 6588

3. Section 1310.04 is proposed to be amended by adding new paragraphs (f)(2)(i)(H) and (f)(2)(ii)(J) to read as follows:

§ 1310.04 Maintenance of records.

(f) * * * (2) * * *

(i) * * * (H) Sodium permanganate. N/A ... 500 kilograms.

(ii) * * * (J) Sodium permanganate. N/A ... 55 kilograms.

4. Section 1310.12 is proposed to be amended by revising paragraph (c) introductory text and adding to the table in paragraph(c) an entry in alphabetical order for "Sodium Permanganate" to read as follows:

§ 1310.12 Exempt chemical mixtures.

(c) Mixtures containing a listed chemical in concentrations equal to or less than those specified in the "Table of Concentration Limits" are designated as exempt chemical mixtures for the purpose set forth in this section. The concentration is determined for liquid-liquid mixtures by using the volume or weight and for mixtures containing solids or gases by using the unit of weight.

TABLE OF CONCENTRATION LIMITS

Table with 4 columns: Chemical Name, DEA chemical code number, Concentration (percent), and Special conditions. Includes entries for List I Chemicals, List II Chemicals, and Sodium Permanganate.

Dated: December 30, 2004. Michele M. Leonhart, Deputy Administrator. [FR Doc. 05-3913 Filed 2-28-05; 8:45 am] BILLING CODE 4410-09-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD13-05-001]

RIN 1625-AA01

Anacortes General Anchorage and Cap Sante and Hat Island Tug and Barge General Anchorages, Anacortes, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish three general anchorages and two tug and barge general anchorages in the vicinity of Anacortes, Washington. These anchorages would reduce the risk of collisions, provide a more orderly movement of tanker traffic in and out of near by oil refineries, and keep the approaches to Guemes Channel open to transiting traffic while providing ample room for barge operations.

DATES: Comments and related material must reach the Coast Guard on or before May 2, 2005.

ADDRESSES: You may mail comments and related material to Commanding Officer (wwm), Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134. Marine Safety Office Puget Sound maintains the public docket [CGD13-05-001] for this rulemaking. Comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Puget Sound between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Alger, Operations Director, Vessel Traffic Service Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217-6040.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13-05-001), indicate the specific section of this document to which each comment

applies, and give the reason for each comment. Please submit all comments and related material in an unbound 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 Marine Safety Office Puget Sound 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 Guemes Channel and the waters near Cap Sante and March Point are used by oil tank ships and tugs and barges and recreational vessels. In April 2000 the Captain of the Port Puget Sound (COTP), Port Angeles Pilots and representatives from the local oil industry and tug boat companies met to discuss efforts to minimize conflicts between vessels which transit Guemes Channel and vessels which anchor near Cap Sante and March Point. As a result of this meeting, the Coast Guard identified certain areas where vessels may anchor without presenting an unacceptably high risk of danger to navigation. Because these areas were not formally established as anchorage grounds, they are not included on nautical charts nor referenced in the Coast Pilot. Hence, vessels transiting the area may not know where vessels may be anchoring. This proposed rule would designate anchorage grounds for certain vessels. These anchorages would be managed by the Coast Guard Vessel Traffic Service Puget Sound (VTS) on behalf of the COTP. Management of these anchorages would reduce the risk of collisions and provide a more orderly movement of tanker traffic in and out of oil refineries at March Point.

Discussion of Proposed Rule

The Coast Guard is proposing establishing three general anchorages centered on a 600 yard (.3 nm) radius from the following positions:

Anacortes East (ANE): 48°31'27" N,
122°33'45" W;

Anacortes Center (ANC): 48°30'54" N,
122°34'06" W; and

Anacortes West (ANW): 48°31'09" N,
122°34'55" W [Datum: NAD 1983]

Lightering operations would only be allowed in the Anacortes West and Anacortes Center anchorages. Consistent with the regulations found at 33 CFR 110.230(b)(1) regarding general anchorages in Puget Sound, no vessel will be allowed to anchor in the Anacortes general anchorages described above without prior permission from the Captain of the Port (COTP), or his authorized representative. However, the Coast Guard proposes making an exception to the requirement to obtain permission for the Cap Sante and Hat Island tug and barge general anchorages, which the Coast Guard proposes creating and are discussed below. In other words, the Coast Guard will not require a tug and barge using the Cap Sante and Hat Island general anchorages to obtain permission from the COTP prior to using these areas.

Currently, 33 CFR 110.230(b)(1) allows vessels to occupy a general anchorage for up to 30 days. This provision will remain unchanged with respect to the general anchorages that are currently established. However, under this proposed rule, no vessel will be permitted to occupy the Anacortes East or Anacortes Center anchorages for a period of longer than ten (10) days or occupy the Anacortes West anchorage for a period longer than six (6) days.

The VTS will apply a hierarchy for assignment of berths in the Anacortes general anchorage area which are based on risk mitigation and are similar in concept to Rule 18 of the Convention on the International Regulations for Preventing Collisions at Sea, 1972, (commonly called 72 COLREGS). The following hierarchy will be applied for assignment of Anacortes General Anchorage Areas—(1) tankers conducting lightering operations, (2) loaded tankers, (3) all other vessels. Each vessel using the Anacortes general anchorage shall be prepared to move within 24 hours upon notification by the COTP. If a vessel is required to depart the Anacortes general anchorage, the COTP will consider where the vessel fits in the assignment hierarchy. Normally, vessels in a lower category will be required to leave before a vessel in a higher category. For example, a non-tanker would be required to leave before a loaded tanker. Furthermore, the COTP will apply the rule of first in, first out (FIFO) to determine which vessel shall depart if the vessels are in the same category.

In addition, the Coast Guard proposes to establish a general anchorage for tugs and barges near Cap Sante and Hat Island. These general anchorages would serve primarily as holding areas for tugs and oil barges awaiting pier space at

nearby refineries or while waiting to conduct bunkering, lightering or other transfer operations. The following are descriptions of these areas. The Cap Sante Tug and Barge General Anchorage includes all waters enclosed by a line connecting the following points: 48°31'16" N, 122°36'00" W, which is approximately the northeast tip of Cap Sante; then southeast to 48°30'53" N, 122°35'28" W; then west southwest to 48°30'45" N, 122°35'52" W, approximately the south tip of Cap Sante; then north along the shoreline to the point of origin. [Datum: NAD 1983]. The Hat Island Tug and Barge General Anchorage includes all waters enclosed by a line connecting the following points: 48°31'19" N, 122°33'04" W, near the west side of Hat Island; then southwest to 48°30'37" N, 122°33'38" W; then east to 48°30'37" N, 122°32'00" W; then northwest to the point of origin. [Datum: NAD 1983].

Tugs and barges in the Cap Sante and Hat Island General Anchorages are required to ensure their vessels and barges do not project beyond the anchorage areas' boundaries. The tug must be manned, remain in attendance with the barge and maintain a communications guard with VTS on an appropriate VTS VHF radio working frequency, which is currently channel 5A. These designated anchorage areas would assist in keeping the approaches to Guemes Channel open to transitioning traffic while providing ample room for barge operations.

In order to accommodate changes to the regulations found in paragraph (b) of this section that are necessary as a result of this proposed rule, the Coast Guard proposes splitting the current paragraph (b)(1) into 6 smaller paragraphs which incorporate changes that are required by this proposed rule. The Coast Guard proposes amending 33 CFR 110.230(b)(1) by including the COTP's designation of Vessel Traffic Service Puget Sound designation as an authorized representative. Vessel Traffic Service Puget Sound has been previously designated by the COTP as his authorized representative for managing the use of the general anchorages established in 33 CFR 110.230 and for obtaining permission to use these general anchorages. However, this designation was never incorporated into the existing regulations. Likewise, under 33 CFR 160.5(d), the Commanding Officer of Vessel Traffic Service Puget Sound is delegated authority under 33 CFR 1.01–30 to discharge the duties of the Captain of the Port that involve anchorage of vessels within a Vessel Traffic Service area including the management of vessel

traffic within anchorages. Furthermore, to allow time for a request to use a general anchorage to be considered, all vessels should seek permission to use a general anchorage at least 48 hours prior to their arrival at the anchorage area. Splitting the current paragraph (b)(1) also makes the numerous requirements previously contained in paragraph (b)(1) easier to read and understand. Paragraphs (b)(2) through (b)(9) would be redesignated as paragraphs (b)(7)–(b)(14) and are unchanged.

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 (DHS).

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.

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 rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this portion of Puget Sound, The Strait of Juan de Fuca, and adjoining waters. Because the impacts of this proposal are expected to be minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have significant economic impact on a substantial number of small entities.

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 Mr. Alger from the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this 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 \$100,000,000 or more in any one year. Though this proposed rule would 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 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 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation because this proposed rule would establish anchorage grounds.

A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035 and 2071, 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

2. In § 110.230 add new paragraphs (a)(15), (16), and (17), redesignate paragraphs (b)(1) through (b)(9) as (b)(7) through (b)(15), respectively, and add new paragraphs (b)(1) through (6) to read as follows:

§ 110.230 Puget Sound Area, Wash.

(a) * * *

(15) *Anacortes General Anchorages.*

(i) *Anacortes East (ANE) Anchorage Area.* The waters within a circular area with a radius of 600 yards, having its center at 48°31′27″ N., 122°33′45″ W. [Datum: NAD 1983].

(ii) *Anacortes Center (ANC) Anchorage Area.* The waters within a circular area with a radius of 600 yards, having its center at 48°30′54″ N., 122°34′06″ W. [Datum: NAD 1983].

(iii) *Anacortes West (ANW) Anchorage Area.* The waters within a circular area with a radius of 600 yards, having its center at 48°31′09″ N., 122°34′55″ W. [Datum: NAD 1983].

(16) *Cap Sante Tug and Barge General Anchorage.* The Cap Sante Tug and Barge General Anchorage includes all waters enclosed by a line connecting the following points: 48°31′16″ N, 122°36′00″ W, which is approximately the northeast tip of Cap Sante; then southeast to 48°30′53″ N, 122°35′28″ W; then west southwest to 48°30′45″ N, 122°35′52″ W, approximately the south tip of Cap Sante; then north along the shoreline to the point of origin. [Datum: NAD 1983].

(17) *Hat Island Tug and Barge General Anchorage.* The Hat Island Tug and Barge General Anchorage includes all waters enclosed by a line connecting the following points: 48°31′19″ N, 122°33′04″ W, near the west side of Hat Island; then southwest to 48°30′37″ N, 122°33′38″ W; then east to 48°30′37″ N, 122°32′00″ W; then northwest to the point of origin. [Datum: NAD 1983].

(b) *The regulations.*

(1) No vessel shall anchor in any general anchorage described in paragraph (a) of this section without prior permission from the Captain of the Port (COTP), or his authorized representative. Vessel Traffic Service Puget Sound is designated as the COTP’s authorized representative. All vessels should seek permission at least 48 hours prior to arrival at the anchorage area in order to avoid unnecessary delays.

(i) Except for the Anacortes General Anchorages, a berth in a general anchorage, if available, may be assigned to any vessel by the Captain of the Port or his authorized representative upon application and he may grant revocable permits for the continuous use of the same berth. For the Anacortes General Anchorages, the following hierarchy will be applied for assignment of a berth: tankers conducting lightering operations, then loaded tankers, and then all other vessels.

(ii) Tugs and oil barges using the Cap Sante and Hat Island General Anchorages are exempt from the requirement to obtain the COTP’s permission.

(2) Except for the Anacortes General Anchorages, no vessel shall occupy any general anchorage for a period longer than 30 days unless a permit is obtained from the Captain of the Port for that purpose. There is a 10 days maximum stay at the Anacortes East and Anacortes Center general anchorages, and 6 day maximum stay at the Anacortes West general anchorage.

(3) The COTP or his authorized representative may require vessels to depart from the Anacortes General Anchorage before the expiration of the authorized or maximum stay. The COTP

or his authorized representative will provide at least 24-hour notice to a vessel required to depart the Anacortes General Anchorage.

(4) No vessel in a condition such that it is likely to sink or otherwise become a menace or obstruction to the navigation or anchorage of other vessels shall occupy any general anchorage except in an emergency and then only for such period as may be permitted by the Captain of the Port.

(5) Within the Anacortes General Anchorages, lightering operations shall only be conducted in the Anacortes West and Anacortes Center anchorages.

(6) Tugs and barges using the Cap Sante and Hat Island Barge General Anchorages are required to ensure their vessels and barges do not project beyond the holding area’s boundaries. The tug must be manned, remain in attendance with the barge and maintain a communications guard with VTS on an appropriate VTS VHF radio working frequency, which is currently channel 5A.

* * * * *

Dated: February 16, 2005.

J.M. Garrett,

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

[FR Doc. 05–3918 Filed 2–28–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–05–001]

RIN 1625–AA09

Drawbridge Operation Regulation; Bayou La Batre, Bayou La Batre, AL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulation governing the operation of the State Highway 188 vertical lift span bridge, across Bayou La Batre, mile 2.3, at Bayou La Batre, Alabama. The proposed rule would allow the draw of the bridge to remain closed to navigation at specific vehicular peak rush hour time periods due to an increase in commuter traffic, Monday through Friday. This rule will allow for better coordination and facilitate movement of both vehicular and marine traffic at the bridge site.

DATES: Comments and related material must reach the Coast Guard on or before May 2, 2005.