

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]

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## 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.

**ADDRESSES:** You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130-3310. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket 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 the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Cindy Herrmann, Bridge Administration Branch, telephone 504-589-2965.

**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 [CGD08-05-001], 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. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch 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 U.S. Coast Guard, at the request of the Alabama Department of Transportation and supported by the Mayor of the City of Bayou La Batre and the Mobile County Public School System, proposes to change the times of the existing drawbridge operation regulation. Currently, the bridge opens on signal except that the draw need not be opened from 8 p.m. to 4 a.m. daily, and from 6:30 to 8:30 a.m. and from 2

p.m. to 5 p.m. Monday through Saturday except holidays.

In an effort to assess and accurately determine the needs of the community, traffic counts and bridge tender logs were supplied by Alabama Department of Transportation. A review of the logs of drawbridge openings and traffic counts reveal that adjusting the marine traffic closures to coordinate with vehicular rush hour traffic should not significantly impact the flow of marine traffic. Allowing the bridge to remain closed to marine traffic during times that coincide with the heaviest vehicular traffic counts would help relieve the morning and afternoon rush hour commuter traffic congestion across the bridge while having minimal impact on vessel traffic. The Coast Guard will evaluate public comment to determine if the proposed special drawbridge operating regulation is warranted.

Navigation at the site of the bridge consists primarily of recreational pleasure craft, fishing vessels, crew boats and tugboats with barges. Alternate routes are not available to marine traffic.

**Discussion of Proposed Rule**

The proposed rule change to 33 CFR 117.103 would allow the bridge across Bayou La Batre, mile 2.3, in Bayou La Batre, Alabama to remain closed to navigation, from 8 p.m. to 4 a.m. daily, except for emergencies. The bridge will open on the hour daily, Monday through Sunday, between 4 a.m. and 8 p.m. except as otherwise specified. Monday through Friday, the bridge will not open on the hours of 7 a.m., 3 p.m., and 4 p.m., but will open on signal at 3:30 p.m. These changes would more closely coincide with peak rush hour traffic. The bridge will open as soon as possible for emergencies.

**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.

This proposed rule provides specific one hour closure periods in lieu of two hour closure periods at peak traffic

times. The Alabama Department of Transportation and local government officials in coordination with local maritime interests agree that a specific operating schedule is warranted.

**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 would affect the following entities: the owners or operators of vessels needing to transit the bridge from 4 a.m. to 8 p.m. daily and the facilities that operate above the bridge.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed 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 the Eighth Coast Guard District Bridge Administration Branch at the address above. 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 will not result in such an expenditure, we do discuss the effects of this proposed 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 proposed 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 M16475.1D, 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 proposed rule is categorically excluded, under figure 2–1, paragraph (34)(e), of the Instruction, from further environmental documentation. Paragraph (34)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of NEPA. Since this proposed rule will alter the normal operating conditions of the drawbridges, it falls within this exclusion.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of P. L. 102–587, 106 Stat. 5039.

2. § 117.103 is revised to read as follows:

#### § 117.103 Bayou La Batre

The draw of the SR 188 Bridge, mile 2.3, at Bayou La Batre, will open on signal every hour on the hour daily between 4 a.m. and 8 p.m., Monday through Sunday. The bridge need not open for the passage of vessels on the hours of 7 a.m., 3 p.m., and 4 p.m., Monday through Friday. An additional opening will be made at 3:30 p.m., Monday through Friday for the passage of vessels. The bridge will remain closed to marine traffic from 8 p.m. to 4 a.m. daily except for emergencies.

Dated: February 15, 2005.

**R.F. Duncan,**

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

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 51, 78, and 97

[Docket No. OAR–2004–0440; FRL–7876–2]

RIN 2060–AJ16

#### Stay of the Findings of Significant Contribution and Rulemaking for Georgia for Purposes of Reducing Ozone Interstate Transport

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing to stay the effectiveness of a final rule we issued under section 110 of the Clean Air Act (CAA) related to the interstate transport of nitrogen oxides (NO<sub>x</sub>). On April 21, 2004, EPA issued a final rule that required the State of Georgia to submit State implementation plan (SIP) revisions that prohibit specified amounts of NO<sub>x</sub> emissions—one of the precursors to ozone (smog) pollution—for the purposes of reducing