

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, and Department of Homeland Security Management Directive 5100.1, 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 (32)(e) of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this 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; 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 § 117.579 to read as follows:

#### § 117.579 Wicomico River (North Prong).

The draws of the Main Street and U.S. 50 bridges, mile 22.4, Salisbury, Maryland shall open on signal if at least four hours notice is given by calling the telephone contact number at (410) 430–7461.

Dated: March 29, 2007.

#### L. L. Hereth,

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

[FR Doc. E7–6303 Filed 4–4–07; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD08–07–007]

RIN 1625–AA11

#### Regulated Navigation Area; Mississippi River, Eighty-One Mile Point

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the existing regulated navigation area (RNA) for the Lower Mississippi River (LMR) mile marker (MM) 233.9 through South and South West Passes by establishing mandatory check-in procedures for vessels transiting on the waters of the Mississippi River between (MM) 167.5 LMR and 187.9 LMR. This proposed rule is needed to minimize the risk of collisions, allisions, and groundings occurring as a result of vessels meeting unanticipated traffic in the vicinity of 81 Mile Point, MM 178 LMR. This proposed rule would require vessels, subject to the Bridge to Bridge Radiotelephone Act (33 United States Code 26) to notify Vessel Traffic Center Lower Mississippi River, New Orleans (VTC New Orleans) prior to entering or getting underway in this section of the RNA.

**DATES:** Comments and related material must reach the Coast Guard on or before June 4, 2007.

**ADDRESSES:** You may mail comments and related material to Marine Safety Unit Baton Rouge, 6041 Crestmount Drive, Baton Rouge, LA 70809. Marine Safety Unit Baton Rouge 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 Marine Safety Unit Baton Rouge between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Todd Peterson, Marine Safety Unit Baton Rouge, at (225) 298–5400.

#### 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 [CGD08–07–007], 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 that your submission 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 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 Unit Baton Rouge 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 separate notice in the **Federal Register**.

#### Background and Purpose

From 1999 to 2006 there have been 64 reported collisions, allisions, or groundings on the Lower Mississippi River between MM 167.5 and 187.9. There have been 21 allisions, 2 barge breakaways, 13 collisions and 28 groundings. Of these 64 casualties, 3 were categorized by 46 CFR 4 as serious marine incidents and 5 as major marine casualties. These casualties have involved all sectors of the maritime industry including deep draft shipping, towing vessels, and barge fleets and have occurred at high, normal and low water conditions.

A waterways user group subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) examined marine casualties on the LMR in the vicinity of 81 Mile Point. This subcommittee consisted of members of the pilots association, towing vessel industry, barge fleets and the Coast Guard. This subcommittee reviewed the location and marine investigation associated with each casualty and subjectively examined river conditions within this RNA. This committee determined that existing waterways management tools may not be sufficient to safely navigate in the vicinity of 81 Mile Point. Providing position reports to VTC New Orleans would allow the Coast Guard to track vessels in this proposed RNA and provide advice to mariners about upcoming traffic in an effort to eliminate meeting and overtaking scenarios at Eighty-One Mile Point.

## Discussion of Rule

Vessels operating within this proposed RNA (MM 167.5 to MM 187.9) would be required to provide position reports to VTC New Orleans at the following locations:

Vessels transiting upriver would provide position reports at MM 167.5 (Sunshine Bridge) and MM 173.7 (Bringier Point Light).

Vessels transiting downriver would provide position reports at MM 187.9 (Cos-mar Light) and 183.9 (Wyandotte Chemical Dock Lights).

Vessels getting underway within this RNA would provide position reports immediately before getting underway and at the above locations when heading upriver or downriver.

Fleet tows operating within their fleet would not be required to report while within the fleet but would provide a position report if they left the fleet or moved into the channel. Position reports would be made on VHF Channel 63A and would provide the name of the vessel, size of tow if applicable including number of loads and empties, destination, and confirm proper operation of their AIS if AIS is required under 33 CFR 164.46. At the time of the position report, the VTC would advise the mariner operating the vessel on upcoming traffic.

## Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 to be so minimal that a full Regulatory Evaluation is unnecessary. The rule does not prohibit transit, but merely requires checking in with VTS New Orleans utilizing existing equipment. The impacts on routine navigation are expected to be minimal.

## 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 proposed rule

would not have a significant economic impact on a substantial number of small entities. This RNA will not have an impact on a substantial number of small entities because this rule will not obstruct the regular flow of commercial vessel traffic conducting business within the RNA. It does not require the purchase of additional equipment and instead utilizes existing VHF capabilities already required by other laws or regulations.

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 to Marine Safety Unit Baton Rouge 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact LT Todd Peterson, Marine Safety Unit Baton Rouge at (225) 298–5400.

## 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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 and Department of Homeland Security Management Directive 5100.1, which guide 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 proposed rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This proposed rule fits in paragraph (34)(g) because it is a regulated navigation area. 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 whether this rule should be categorically excluded from further environmental review.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.810 by adding paragraph (g) to read as follows:

### § 165.810 Mississippi River, LA-regulated navigation area.

\* \* \* \* \*

(g) *Movement of vessels in the vicinity of Eighty-One Mile Point, Geary LA mm 167.5–187.9 LMR.* (1) Prior to proceeding upriver past MM 167.5, LMR, Sunshine Bridge, vessels shall contact Vessel Traffic Center (VTC) New Orleans on VHF Channel 63A to check-in. Vessels must provide name, destination, confirm proper operation of their automated identification system (AIS) if required under 33 CFR 164.46 and, if applicable, size of tow and number of loaded and empty barges. At MM 173.7, LMR, Bringier Point Light, ascending vessels shall contact VTC New Orleans and provide a follow-on position check. At both check-in and follow-on position check VTC New Orleans will advise the vessel on traffic approaching Eighty-One Mile Point.

(2) Prior to proceeding downriver past MM 187.9, LMR, COS–MAR Lights, vessels shall contact Vessel Traffic Center (VTC) New Orleans on VHF Channel 63A to check-in. Vessels must provide name, destination, confirm proper operation of their automated identification system (AIS) if required under 33 CFR 164.46 and, if applicable, size of tow and number of loaded and empty barges. At MM 183.9 LMR, Wyandotte Chemical Dock Lights, descending vessels shall contact VTC New Orleans and provide a follow-on position check. At both check-in and follow-on position check VTC New Orleans will advise the vessel on traffic approaching Eighty-One Mile Point.

(3) All vessels getting underway between miles 167.5 and 187.9 must check-in with VTC New Orleans on VHF Channel 63A immediately prior to getting underway and must comply with the respective ascending and descending check-in and follow-on points listed in paragraphs (g)(1) and (g)(2) above.

(4) Fleet vessels must check-in with VTC New Orleans if they leave their respective fleet or if they move into the main channel. Fleet vessels are not required to check-in if they are operating exclusively within their fleet.

Dated: 23 March 2007.

**J. R. Whitehead,**

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

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018–AU77

### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Ceanothus ophiophilus* (Vail Lake ceanothus) and *Fremontodendron mexicanum* (Mexican flannelbush)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period, notice of availability of draft economic analysis, and amended Required Determinations.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on the proposed designation of critical habitat for two southern California plants: *Ceanothus ophiophilus* (Vail Lake ceanothus) and *Fremontodendron mexicanum* (Mexican flannelbush). We also announce the availability of the draft economic analysis for the proposed critical habitat designations and an amended Required Determinations section of the proposal. The draft economic analysis identifies potential costs will be \$385,000 to \$659,000 in undiscounted dollars over a 20-year period as a result of the proposed designation of critical habitat, including those costs coextensive with listing and recovery. Discounted future costs are estimated to be \$325,000 to \$559,000 (\$22,000 to \$38,000 annualized) at a 3 percent discount rate, or \$272,000 to \$471,000 (\$26,000 to \$44,000 annualized) at a 7 percent discount rate. The amended Required Determinations section provides our determination concerning compliance with applicable statutes and Executive Orders that we have deferred until the information from the draft economic analysis of this proposal was available. We are reopening the comment period to allow all interested parties to comment simultaneously on the proposed rule, the associated draft economic analysis, and the amended Required Determinations section.

**DATES:** We will accept public comments until May 7, 2007.

**ADDRESSES:** Written comments and materials may be submitted to us by any one of the following methods:

(1) *E-mail:* Please submit electronic comments to [fw8cfwocomments@fws.gov](mailto:fw8cfwocomments@fws.gov). Include “RIN 1018–AU77” in the subject line.