

A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations to read 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; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. A new section, 117.714, is added to read as follows:

§ 117.714 Corson Inlet.

The draw of the Corson Inlet bridge, mile 0.9, at Strathmere, shall open on signal; except that from October 1 through May 15, from 10 p.m. to 6 a.m., the draw need only open if at least two hours notice is given.

Dated: December 6, 1996.

Kent H. Williams,

Vice Admiral, U.S. Coast Guard, Commander, Atlantic Area.

[FR Doc. 96-32845 Filed 12-24-96; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD0-96-017]

Rin AE2115-AE46

Prevention of Collisions Between Commercial and Recreational Vessels in the South Passage of the Lake Erie Western Basin

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a number of options for improvement of navigational safety in an area known as the "South Passage" in the Western Basin of Lake Erie. This is a high traffic area used by both commercial and recreational vessels. Collisions between commercial and recreational vessels in this area, with loss of lives in one case, have given the Coast Guard cause for concern about the long-term safety of the South Passage. The Coast Guard therefore requests public comment on the appropriateness and practicality of various options,

some of which include possible regulatory action, to better protect both commercial and recreational vessels from risk of collision in this area. The Coast Guard is providing an advance notice of proposed rulemaking because comments on a range of various options are desired.

DATES: Comments must be received on or before February 24, 1997.

ADDRESSES: Comments and supporting materials should be mailed or delivered to Lieutenant Commander Rhae Giacoma, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199-2060. Please reference the name of the proposal and the docket number in the heading above. If you wish receipt of your mailed comments to be acknowledged, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9:00 a.m. to 3:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rhae Giacoma, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199-2060, (216) 522-3994.

SUPPLEMENTARY INFORMATION:

Request for Comments.

The Coast Guard Strongly encourages all interested parties to participate in this consideration of possible rulemaking by submitting written comments which may consist of data, views, arguments, or other proposals for or against the various options being considered. The Coast Guard is presenting options for a regulated navigation area as one approach for resolving the apparent waterway user conflict in the South Passage area of Western Lake Erie. Proposals for non-regulatory alternatives which would serve the same purpose of enhancing vessel safety in the area are also desired. Although all comments will be considered, interested parties are requested to specifically identify which of the detailed options they are commenting on, the basis for their objection to proposals they dislike, and what alternative option (including the option of no action) they do support.

The Coast Guard does not currently plan to have a public hearing. The Coast Guard sponsored a number of informal workshops which were open to all interested parties and which provided

an informative airing of views. At this point, the Coast Guard is more in need of specific, written, and concrete comments. However, further consideration will be given to holding a formal public hearing if one is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would substantially contribute to this rulemaking, the Coast Guard will announce such a hearing by a later notice in the Federal Register. The Coast Guard will consider all comments received before the closing date indicated above, and may amend or revoke this proposal in response to such comments.

Background and Purpose

I. The South Passage

The South Passage is an area of water on the United States side of the Western Basin of Lake Erie, roughly 9 by 4 statute miles, bounded by Kelleys Island and South Bass Island on the north, and by Catawba Island and Point Marblehead on the south. The South Passage is one of two traditional, natural passages through the islands and shallows separating the Western and Central Basins of Lake Erie, the other being the Pelee Passage to the north on the Canadian side of the Western basin. At one time, between 1952 and 1974, it appears that the South Passage was a regular route for large commercial carriers. Since that time, Pelee Passage to the north in Canadian waters has become the preferred route for large commercial vessels transiting through the Western End of Lake Erie. There is still a wide array of both commercial and recreational traffic using some parts of the South Passage, including some large commercial carriers transiting in and out of the Marblehead area on the east side, barges and tow boats in transit both through and across the passage, regular ferry boats transiting across the passage, commercial excursion vessels, transiting recreational crafts, and recreational fishing vessels. In addition to being a natural passage in and out of the basin and a natural area of transit between the mainland and the islands, the South Passage is also a desirable fishing ground where a relatively heavy concentration of small recreational fishing vessels anchor or drift.

II. Accidents in the South Passage

Three collisions between commercial barges in tow and small recreational craft have occurred in the South Passage

during the last five years, one of which resulted in two deaths. (1) On May 1, 1992, a tug with a barge in tow collided with a recreational bass boat in the east end of the South Passage, off the Marblehead and Lakeside area. The bass boat was anchored, the occupants engaged in fishing. There was minor injury to one of the occupants of the bass boat. The Coast Guard took administrative actions against the license of the master of the tug. (2) On October 1, 1994, a tug and barge collided with a recreational motorboat in the west end of the South Passage, slightly to the east of the channel marked by the Starve Island Reef Red #2 buoy and the Scott Point shoal Green #1 buoy. The motorboat was anchored or dragging anchor (until shortly before the collision, when the occupants apparently attempted to raise anchor), the occupants engaged in fishing. Two of the four occupants of the motorboat died by drowning after jumping from the boat just before collision, and the other two occupants suffered minor injuries. The State of Ohio convicted the master of the tug of a misdemeanor and the Coast Guard has filed charges against the licenses of both the master and the operator of the tug. (The licensing action is still in adjudication.) The Coast Guard also required the owners of the tug and barge to make structural changes improving the visibility from the bridge. (3) On June 13, 1995, a tug with a crane barge in tow collided with a recreational motorboat in the east end of the South Passage, approximately one mile northeast of Marblehead light. The one occupant of the motorboat was "drift fishing." No one was injured in the collision. The State of Ohio convicted the operator of the motorboat of a minor misdemeanor and the Coast Guard took administrative action against the license of the operator of the tug. The Coast Guard also required the owners of the crane barge to insure that visibility was not obstructed by the crane.

Although this is not a large number of accidents over a five-year period, the similarity of the events and the inherent dangerousness of collisions between barges and small boats, tragically demonstrated by the two deaths which have occurred, prompted the Coast Guard to conduct a special study of the South Passage in order to determine if there is a systemic problem which should be addressed. The Coast Guard and the State of Ohio have used administrative and criminal procedures to hold individuals (both commercial and recreational vessel operators) accountable in these cases. Although

fault may be appropriately assigned to individuals for their failure to keep a proper lookout and exercise due care to avoid collisions in accordance with the principles of good seamanship, this does not negate the possibility that there are systemic problems creating an unusual risk of collision. The purpose of this study is to address those systemic problems. All three collisions occurred between tug/barge combinations and boats engaged in fishing. In one case the recreational boat was anchored, in another it was clearly drifting, and in one case it is uncertain whether it was at anchor or adrift at the time. In two cases it does not appear that the recreational boats were in clearly defined channels. In one case, the 1994 case which resulted in the deaths, the collision occurred in a channel clearly marked by red and green lateral buoys (Reef Red #2 buoy and Scott Point Shoal Green #1 buoy), although it is a matter very much in controversy as to whether or not this constituted a "narrow channel" as that term is used in the Inland Navigational Rules Act of 1980 (33 U.S.C. §§ 2001 et seq., especially Rule 9, 33 U.S.C. § 2009). Whether or not that was a "narrow channel" at the time (which is not a matter to be determined in this forum), the detailed investigation of that case conducted by the Coast Guard did provide some indication of a systemic conflict between recreational and commercial traffic in the South Passage. As the tug and barge approached the west end of the passage, they navigated between two large concentrations of boats north and south of the west end. As they actually entered the navigational channel marked by Starve Island Reef Red #2 Buoy on the north and Scott Point Shoal Green #1 Buoy on the South, they found themselves between two packs of 15 or so boats, one clustered around each of the buoys. The recreational vessel that they hit was on the northeast side of the pack around the southern buoy, apparently quite close to the middle of the navigational channel. Given the inherent limits on the maneuverability of barges in tow, it appears that this was a dangerous situation in the making.

III. Consultation With the Marine Community

The Coast Guard solicited information and opinion from a variety of groups in order to obtain a better appreciation of the South Passage and develop ideas for possible improvements in navigational safety. This was an effort to fulfill the spirit of the President's "Regulatory Reinvention Initiative" (Presidential Memorandum of March 4, 1995), in which President Clinton urged Federal

agencies to work with the local people affected by regulatory actions in order to achieve a consensus on reasonable solutions whenever possible. Those invited to provide input on the South Passage included tow boat operators, commercial carriers, commercial passenger vessel operators, recreational boating and fishing associations, a professional mariner association and individual mariners, along with representatives of the Ohio Department of Natural Resources, the City of Toledo, and the U.S. Coast Guard Auxiliary. Five informal workgroup sessions were held. The discussions were informal, wide-ranging, sometimes adversarial, and less informative than hoped. Many of the issues discussed were highly controversial, and there was little consensus on any point except the importance of continuing and enhancing existing programs for education of recreational boaters. There was controversy about whether or not there is a particular problem with conflicts between recreational and commercial vessels in the South Passage, with very different, sometimes inconsistent statements being made during the course of the informal discussions. There clearly are a large number of small boats anchored or drifting in various areas around the passage during summer months. However, some participants argued that there is no real problem with "congestion" or conflicting use as such. Other participants in the discussions described some dangerous situations, including near-misses between recreational and commercial vessels. There were comments about the dangerousness of recreational boaters anchoring or drifting in commercial channels, and, conversely, about the dangerousness of barge operators who seem to expect boats to give way as a matter of course. Some participants also expressed concern about boats sometimes blocking the approaches to the ferries running across the passage.

Because the characterization of the passage as "congested" has been controversial (the President of the Great Lakes Sport Fishing Council has found this term particularly objectionable), several points about the use of that term should be clarified. First, it is a relative matter, having more to do with particular, localized concentrations of boats in navigational channels rather than a question of overall density in the passage. Clusters of ten to twenty boats gathered off points or gathered around a buoy, as is common even on weekdays during the summer in the passage, can constitute "congestion" even though

there may be no more than a few hundred boats out in the passage in total and there are large sections of the passage which are clear that day. Second, "congestion" is very relative to the point of view of the mariner in question. The same situation may appear completely uncongested to a recreational boater with freedom to maneuver in any of the large empty spaces of water remaining outside the clusters, and yet appear most definitely congested to the commercial operator forced to pass very close to one of those clusters because of limited scope for maneuver. Finally, the use of the term "congestion" by representatives of the Coast Guard in the workgroup discussions should not have been interpreted as expressing any idea that the South Passage has too much recreational traffic. To the contrary, the Coast Guard views the South Passage as an extremely valuable resource, important to recreation and tourism, which should be fully enjoyed by all. Any adjustments to navigational practices which may help protect the safety of recreational boaters using the passage should serve to encourage rather than discourage continued and expanded use of the passage for fishing and other recreation.

There was considerable dispute about the relative fault between recreational and commercial operators, and an intense controversy about whether the channel between the two buoys which was the site of the fatalities on October 1, 1994 was or was not a "narrow channel" subject to Rule 9 of the Inland Navigational Rules Act (which requires a small vessel to avoid impeding a vessel which cannot safely navigate outside the narrow channel). And there were widely differing opinions about the appropriateness of area-specific navigational regulations, some arguing that a few clear, geographic delineations would greatly enhance safety, others arguing that any regulations beyond the general navigational rules are unnecessary.

Although the workgroup discussions certainly assisted the Coast Guard in delineating issues, it is important for the Coast Guard to now be able to consider written and attributable comments on specific proposals. Also, it is important for the Coast Guard to make sure that any decision be based on comments from all concerned parties, solicited on an equal basis, whether or not they had an opportunity to personally participate in the workgroup sessions.

IV. Working Propositions

In framing the regulatory options presented here, the Coast Guard is

proceeding on the basis of the following propositions, which are subject to dispute:

1. There is an obvious danger created when small boats are at anchor or adrift in an area used by a large commercial vessel, particularly if the occupants of the small boats are occupied in fishing and the commercial vessels are restricted in their visibility and maneuverability.

2. Recreational and commercial vessels have a right to make use of the South Passage, neither taking absolute priority over the other, but some regulatory adjustment may be necessary in order to insure that both can do so safely. Although Pelee Passage is now the primary route for large commercial traffic transiting Lake Erie, it is important not to lose the availability of the South Passage (the only passage in United States waters) for commercial traffic. At the same time, recreational use of the islands and fishing grounds in the South Passage area is likely to increase, and should not be impeded.

3. Any local rules promulgated for a particular area such as the South Passage should be consistent with the general statutory rules for navigation. Those general statutory rules obligate one vessel not to impede the passage of another. Section 15 of the Rivers and Harbors Act (33 U.S.C. 409) provides that "It shall not be lawful to tie up or anchor vessels * * * in navigable channels in such a manner as to prevent or obstruct the passage of other vessels. * * *" and Rule 9(b) of the Inland Navigational Rules (33 U.S.C. § 2009(b)) provides that "A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel than can safely navigate only within a narrow channel or fairway."

4. The general statutory provisions quoted above do not provide unambiguous guidance in some of these dangerous cases involving commercial and recreational vessels. It is a case by case determination (and certainly a matter of dispute, as evidenced by the discussions which took place in the workgroups) as to whether a particular vessel at anchor is obstructing another or whether any one of dozens of identifiable channels in the South Passage are "narrow channels." It is difficult for an operator of a small recreational boat to know, in fact, whether or not the small vessel is obstructing a large commercial vessel which may or may not be restricted in its ability to maneuver. The recreational operators are usually not familiar with the drafts, stopping distances, and visibility limitations of large commercial vessels, particularly barges

in tow. A small boat which is not an obstruction one day when there are few other vessels in a wide channel may well be an obstruction another day when the whole channel is more congested. In the absence of radio communications among the recreational vessels, and between the recreational and commercial vessels, it is difficult for the operators of the recreational vessels to know if they are in violation of these statutory provisions.

5. Other governmental actions of a more general and comprehensive nature may be of relevance in addressing this sort of problem on a nationwide basis. Those include (as suggested during the workgroup discussions), amendments to the Inland Navigational Rules Act of 1980, more extensive Coast Guard regulation of towing vessels (including visibility standards on all sizes of barge and tow combinations), new equipment requirements for recreational boats (such as radar reflectors, anchor balls, or radios), and licensing of recreational vessel operators. However, these proposals are outside the authority of the Commander of the Ninth Coast Guard District and cannot be expected to provide any improvement in the navigational safety in the South Passage in the foreseeable future. The Ninth District has already specified visibility requirements for some tug and barge combinations subject to Coast Guard inspection (including the one involved in the fatal collision on October 1, 1994). The Commander of the Ninth Coast Guard District is certainly prepared to submit a proposal for changes in the navigation rules to the Commandant of the Coast Guard if it appears that such a proposal would enhance safety and be appropriate on a nationwide basis. However, it is not apparent what change in the language of Rule 9 would as a practical matter better define a "narrow channel" in all the circumstances to which that would apply around the nation. At this point (although any written proposal will be read with interest), it seems more useful to address particular problem areas on a case by case basis, taking into account the particular configuration of the waterway and the traffic in the local area.

V. Options Under Consideration

The Coast Guard invites comments on any or all of the following options, and requests that commentors specifically identify the options they are arguing for or against (although comments making arguments in favor of options not listed here will also be considered):

Option 1. Do nothing. The existing accident rate would be deemed

unfortunate but tolerable, perhaps unavoidable. It may be noted that there have been no similar accidents during the 1993 or 1996 navigation seasons, although it should also be noted that neither the Coast Guard nor the State of Ohio has a system for recording and investigating near-misses which may occur on a more frequent basis. On the other hand, it may be argued that the congestion and dangerousness of the system is only likely to increase in the future.

Option 2. Emphasize enforcement and education. Make no changes in the South Passage navigational system, but put more resources into enforcement and educational efforts. The Coast Guard would continue with existing enforcement and education in cooperation with the Ohio Department of Natural Resources, the Coast Guard Auxiliary, the Power Squadron, boating groups, and maritime industry, as resources allow. Particular focus can be put on insuring high standards of professionalism among licensed commercial operators and educating recreational boaters about the dangers inherent in anchoring or drifting in commercial channels. However, Coast Guard resources available for more on the water enforcement or more educational outreach are limited, perhaps declining. Moreover, while operators can be told of the danger and reminded of their obligation to always maintain a good lookout, it is not clear how either enforcement or education can be effective in convincing small boats not to anchor or drift in front of channels needed by commercial vessels in the absence of some unambiguous legal rule prohibiting it.

Option 3. Make nonregulatory changes to the navigational system in the South Passage. The Coast Guard could request that the National Oceanic and Atmospheric Administration add some special delineations and notes to the nautical charts, marking the areas most commonly used by commercial vessels and warning small vessels that these areas may be dangerous for anchoring or drifting. (The areas delineated in the text of the regulatory alternatives proposed here may be taken as examples of lanes or danger areas which could also be delineated on a nonregulatory basis.) However, this may only create more confusion. Would such a marking create a "narrow channel" under Rule 9 or an "obstruction" under the Rivers and Harbors Act? Would a boater be guilty of "negligent operation" under Federal and State law for failing to heed the "nonregulatory" warning? Would it depend on whether or not a commercial vessel was operating in the

warning area at the time? Special warning buoys could also be established by the Coast Guard. However, this would tend to create the same confusion about legal effect, and would be a drain on limited resources available to maintain aids to navigation in the Great Lakes.

Option 4. Establish regulated navigation areas in the South Passage. There is a wide variety of special rules which could be established to help avoid collisions. The regulatory options currently under consideration include the following permutations (and others will be considered if proposed by commentors). All mariners are invited to comment on the likely effectiveness of these proposals in protecting against the danger of collision. Operators of recreational boats, fishers, and others who have an economic interest in recreational or fishing activity in the area, are specifically requested to comment on any cost associated with these limited restrictions on anchoring and drifting.

Option 4-A. Designated no-anchor and no-drift lanes. These are narrow lanes for the routes most heavily used by commercial traffic, including (1) the channel between Starve Island Reef and Scott Point Shoal, (2) the approach to the commercial docks on the west side of Kelleys Island, (3) the approach to the commercial docks at Marblehead, and (4) the established ferry routes across the passage, between South Bass Island and Scott Point, and between the south side of Kelleys Island and Marblehead. Within these lanes, vessels of any size would be prohibited from either anchoring or drifting, but would be allowed to navigate in any manner otherwise allowed by the navigation rules as long as not anchored or adrift. A permutation on the theme might be to provide that a vessel would not be prohibited from anchoring or drifting in these lanes if the operator of the vessel is monitoring a marine radio on channel 16 so as to be available to be effectively hailed by an approaching commercial vessel.

This is the most restrictive regulatory option being considered. Under this option, the area marked off for no anchoring or drifting would be approximately 13% of the total area of the South Passage. Other forms of navigation would not be restricted. It may be noted that the proposed lanes are near to, but not at the specific points where the three collisions discussed above occurred. The purpose of the lanes is to provide the most logical routing possible, to and from points of commercial activity, which are as far as

possible away from the shallower areas favored for fishing.

Draft Regulatory Text, Option 4-A:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* The following navigational lanes in the South Passage of Western Lake Erie are regulated navigation areas:

(1) South Passage Transit Lane: an area 150 yards to either side of a line (approximately 8¾ statute miles long) running northwesterly (302° T) from a point at 41°33'30" N, 82°42'43" W on the east end of South Passage to a point at 41°37'30" N, 82°51'16" W on the west end of South Passage.

(2) Kellstone Lane: an area 150 yards to either side of a line (approximately 2⅞ statute miles long) running southwesterly (235° T, on a line of sight from the Kellstone Crib Light to the West Harbor Entrance Channel Light #1) from the Kellstone Crib Light at 41°36'36" N, 82°43'40" W to the point of intersection of the South Passage Transit Channel center line at 41°35'15" N, 82°46'24" W.

(3) Marblehead Stone Dock Lane: an area 150 yards to either side of a line (approximately 1¼ statute miles long) running northerly (019° T), from the Marblehead Stone Dock Light at 41°32'42" N, 82°43'48" W to the point of intersection of the South Passage Transit Channel center line at 41°33'45" N, 82°43'19" W.

(4) Catawba Island to South Bass Island Ferry Lane: an area 150 yards to either side of a line (approximately 2¾ statute miles long) running due north (000° T), from the ferry dock on the north side of Catawba Island (41°35'16" N, 82°50'13" W) to the ferry dock on the south side of South Bass Island (41°37'43" N, 82°50'13" W).

(5) Neuman Marblehead to Kelleys Island Ferry Lane: an area 150 yards to either side of a line (approximately 3½ statute miles long) running northerly (006° T), from the Neuman ferry dock at Marblehead (41°32'39" N, 82°43'55" W) to the Neuman ferry dock on the south side of Kelleys Island (41°35'42" N, 82°43'31" W).

(6) Kellstone Marblehead to Kelleys Island Ferry Lane: an area 150 yards to either side of a line (approximately 3⅜ statute miles long) running northerly (019° T), from the Kellstone ferry dock at Marblehead (41°32'38" N, 82°43'39" W) to the Kellstone ferry dock on the south side of Kelleys Island (41°35'21" N, 82°42'20" W).

(b) *Regulations.* Vessels shall not anchor or drift in these regulated navigation areas.

Option 4-B. Designated no-anchor and no-drift choke points. This would be the same as Option 4-A, except that it would be limited to smaller areas in critical choke points on the ends of the commercial lanes instead of extending to the whole length of the lanes. These choke points could include (1) the approximately 600 by 1000 yard area immediately south of Starve Island Reef Red Buoy #2 bounded by the 25-foot depth contour, (2) a 300 by 1500 yard rectangle with a long axis of 224° true

running from the light on the end of the Kellstone dock on the east side of Kelleys Island to the middle of the channel between Carpenter point and the Red #2 Buoy off the point, and (3) 300 by 1000 yard areas off each of the ferry docks on South Bass Island, Catawba Island, Kelleys Island, and Marblehead.

Under this option, the area marked off for no anchoring or drifting would be approximately 3% of the total area of the South Passage. Other forms of navigation would not be restricted.

Draft Regulatory Text, Option 4-B:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* The following areas in the South Passage of Western Lake Erie are regulated navigation areas:

(1) Scott Point Shoal and Starve Island Reef Channel: an area 300 yards to either side of a line (approximately 1 statute mile long) running northwesterly (302° T) from a point at 41°36'17" N, 82°48'19" W (approximately 300 yards northeast of Scott Point Shoal Green Buoy #1) to a point at 41°36'40" N, 82°49'16" W (approximately 300 yards southwest of Starve Island Reef Red Buoy #2).

(2) Kellstone Approach Channel: an area 150 yards to either side of a line (approximately 1¼ statute miles long) running southwesterly (235° T, on a line of sight from the Kellstone Crib Light to the West Harbor Entrance Channel Light #1) from the Kellstone Crib Light at 41°36'36" N, 82°43'40" W to a point at 41°36'02" N, 82°44'50" W.

(3) Marblehead Stone Dock Approach Channel: an area 150 yards to either side of a line running 019° T for 1000 yards from the Marblehead Stone Dock Light at 41°32'42" N, 82°43'48" W.

(4) South Passage Ferry Approach Channels: areas 150 yards to either side of lines 1000 yards long running:

(i) 000° T from the ferry docks on the north side of Catawba Island (41°35'16" N, 82°50'13" W);

(ii) 180° T from the ferry dock on the south side of South Bass Island (41°37'43" N, 82°50'13" W);

(iii) 0006° T from the Neuman ferry dock at Marblehead (41°32'39" N, 82°43'55" W);

(iv) 186° T from the Neuman ferry dock on the south side of Kelleys Island (41°35'42" N, 82°43'31" W);

(v) 019° T from the Kellstone ferry dock at Marblehead (41°32'38" N, 82°43'39" W); and

(vi) 099° T from the Kellstone ferry dock on the south side of Kelleys Island (41°35'21" N, 82°42'20" W).

(b) *Regulations.* Vessels shall not anchor or drift in these regulated navigation areas.

Option 4-C. Designated give-way areas. The same areas indicated above in either Option 4-A or Option 4-B, either lanes or choke points, could be designated as areas in which vessels less than 20 meters in length are obligated to clear the designated area upon the

approach of barges, ferries, or other commercial vessels greater than 20 meters in length. In effect, this would be creating a "narrow channel" rule for each of these designated areas. Such a rule may or may not already apply in some of these areas depending on interpretation on the general rules. But this would make it clear and unambiguous, with notice to all parties beforehand. However, it is difficult to specify a practical decision rule for determining how close the approaching large vessel need be before the small vessel would be obligated to clear the channel.

Draft Regulatory Text, Option 4-C:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* [Locations would be the same as those in either Option 4-A or Option 4-B above.]

(b) *Regulations.* In these regulated navigation areas, all vessels less than 20 meters in length shall clear the area upon the approach of barges, ferries, or other commercial vessels greater than 20 meters in length.

Drafting Information

The drafters of this regulation are Lieutenant Commander Rhae Giacoma, Assistant Chief, Marine Safety Analysis and Policy Branch, the project officer, and Commander Eric Reeves, Chief, Marine Safety Analysis and Policy Branch, Marine Safety Division, Ninth Coast Guard District.

The Environment, the Economy, and Federalism

The Coast Guard invites comments on significant effects that any of the actions or nonactions proposed in this notion would have on the environment, economics, or federalism:

(1) Would any of these proposed regulations or other options considered here have a significant environmental impact on the South Passage, Lake Erie, or nearby shore areas? If so, what resources would be impacted? How would the impacts be likely to occur?

(2) Would any of these proposed regulations or other options considered here have a significant economic impact on any small business or other small entity? If so, what are the likely costs? How would those costs be incurred?

(3) Would any of these proposed regulations or other options considered here intrude into areas traditionally not regulated by the Federal Government or otherwise implications for Federal and State relations?

Dated: December 2, 1996.

John A. Bastek,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 96-32836 Filed 12-24-96; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5668-9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Minot Landfill Site from the National Priorities List: request for comments.

SUMMARY: The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Minot Landfill Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of North Dakota (State) have determined that the Site as remediated poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before January 27, 1997.

ADDRESSES: Comments may be mailed to: Erna Acheson Waterman, Remedial Project Manager, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Mail Stop EPR-SR, Denver, Colorado 80202-2466.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Minot Landfill site information repositories at the following locations:

Superfund Records Center, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, 5th Floor, Denver, Colorado 80202-2466, (303) 312-6473. Hours of operation are 8:00 a.m. to 4:30 p.m.

Background information from the Regional public docket is also available for viewing at the Minot Landfill Site