

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. Some vessel owners might be temporarily inconvenienced by the change, if effected, but the greater advance notice required in part of the morning and evening should not be significant, especially after vessel operators learn of the change and can therefore plan their trips accordingly. 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.

#### **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**

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

#### **Taking of Private Property**

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 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 E.O. 12988, Civil Justice Reform, to

minimize litigation, eliminate ambiguity, and reduce burden.

#### **Protection of Children**

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Environment**

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

#### **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; 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. Section 117.899 is revised as follows:

#### **§ 117.899 Youngs Bay and Lewis and Clark River.**

(a) The draw of the US101 (New Youngs Bay) highway bridge, mile 0.7, across Youngs Bay at Smith Point, shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times at least a four-hour notice by telephone is required. The opening signal is two prolonged blasts followed by one short blast.

(b) The draw of the Oregon State (Old Youngs Bay) highway bridge, mile 2.4, across Youngs Bay at the foot of Fifth Street, shall open on signal for the

passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. Saturday and Sunday. At all other times at least a four-hour notice by telephone is required. The opening signal is two prolonged blasts followed by one short blast.

(c) The draw of the Oregon State (Lewis and Clark River) highway bridge, mile 1.0, across the Lewis and Clark River, shall open on signal for the passage of vessels if at least one half-hour notice is given by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. The opening signal is one prolonged blast followed by four short blasts.

Dated: May 7, 2001.

**P.M. Sanders,**

*Captain, U.S. Coast Guard, Commander, Thirteenth Coast Guard District, Acting.*

[FR Doc. 01–17381 Filed 7–11–01; 8:45 am]

**BILLING CODE 4910–15–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Parts 151 and 153**

#### **46 CFR Part 4**

[USCG–2000–6927]

**RIN 2115–AD98**

#### **Reporting Marine Casualties**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** On November 2, 2000, the Coast Guard published a notice of proposed rulemaking to amend the marine casualty reporting requirements by adding "significant harm to the environment" as a reportable marine casualty. This supplemental notice of proposed rulemaking addresses only the comments received in response to the Federalism section of the preamble and only proposes a revised Federalism section.

**DATES:** Comments and related material must reach the Docket Management Facility on or before September 10, 2001.

**ADDRESSES:** To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, USCG-2000-6927, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this proposed rule, contact Lieutenant Junior Grade Edward Jackson, Project Manager, Office of Standards Evaluation and Development (G-MSR), Coast Guard, telephone 202-267-6884. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

#### 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 [USCG-2000-6927], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, 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.

#### Regulatory History

At Coast Guard Headquarters in Washington, DC, we held a public meeting on this project on January 20, 1995 (59 FR 65522; December 20, 1994), regarding amendments contained in the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101-380) that require certain U.S. and foreign-flag vessels to report marine casualties.

On November 2, 2000, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Reporting Marine Casualties in the **Federal Register** (65 FR 65808).

#### Background and Purpose

The Coast Guard received 24 letters commenting on the NPRM, nine of which related to the Federalism section. Several comments also requested a public meeting to discuss the Federalism section. This supplemental notice addresses only the comments regarding the Federalism section and the requests for a public meeting. The remaining comments will be considered as we develop the final rule.

#### November NPRM

Current marine casualty reporting requirements for U.S.-flag vessels worldwide and foreign-flag vessels in U.S. navigable waters are contained in 46 CFR part 4. The proposed amendments would add "significant harm to the environment" as a reportable marine casualty under 46 CFR 4.05-1 for these vessels.

This rulemaking will help the Coast Guard track and investigate marine casualties that may result in significant harm to the environment. In addition, it will lessen the effects of marine casualties by requiring timely notification needed to ensure a timely and appropriate pollution response clean-up. It would also require foreign-flag tank vessels in the U.S. Exclusive Economic Zone (EEZ) to report marine casualties that occur within the U.S. EEZ, involving material damage affecting the seaworthiness or efficiency of a vessel, or significant harm to the environment.

In accordance with § 4106 of OPA 90, the Coast Guard proposes to amend the marine casualty reporting requirements to require U.S. vessels anywhere, foreign vessels in the U.S. navigable waters and foreign tank vessels in the U.S. EEZ to report a discharge or a substantial threat of discharge involving

oil, hazardous substances, marine pollutants, or Noxious Liquid Substances (NLS) to the Coast Guard.

We propose to adopt the MARPOL 73/78 standard for reporting discharges and probable discharges.

#### Discussion of Comments

##### Federalism

The Coast Guard received 10 comments on the Federalism section of the November 2, 2000 NPRM. These comments stated that the Federalism section appears to preempt states from regulating the reporting of discharges of oil or hazardous substances in U.S. waters as a casualty, and therefore, this section should be revised.

We have considered the comments submitted by the eight States, one regional group, and one corporation. We now recognize that the Federalism statement as published in the NPRM could be interpreted to mean that this rulemaking would preempt State regulations requiring reporting of discharges to State officials. The Coast Guard did not intend such an interpretation, and proposes to revise the Federalism statement accordingly.

In the case of *United States v. Locke*, 529 U.S. 89 (2000), the Supreme Court held the States may not regulate in categories reserved for regulation to the Coast Guard, including design, construction, alteration, repair, maintenance, operation, equipping, personnel certification and manning of vessels, among others. Included in the categories reserved to the Coast Guard are regulations requiring the reporting of marine casualties. The Supreme Court recognized that marine casualties resulting in significant harm to the marine environment would be included in the preempted category. The Federalism statement in the NPRM was drafted to reflect that aspect of the *Locke* decision. However, the Court also discussed Section 1018 of OPA 90 at length. Section 1018(a) states, in part, that "nothing in the Act shall affect, or be construed or interpreted as preempting the authority of any State or any political subdivision thereof from imposing any additional liability or requirements with respect to—(A) the discharge of oil or other pollution by oil within such State or (B) any removal activities in connection with such a discharge." Section 1018(c) allows for "additional liability or additional requirements" relating to "the discharge or substantial threat of a discharge of oil." While the Court held that Section 1018 did not affect the preemptive impact of the categories described above, State requirements regarding

reporting to it of the actual discharge or the substantial threat of a discharge of oil so that it could undertake its proper role in respect of the removal of such a discharge (and its rules in respect of liability and compensation for that discharge) were unaffected by the decision.

The Coast Guard believes that reporting of discharges or of the substantial threat of a discharge of oil is within the ambit of State regulation contemplated by Section 1018 of OPA, because without such reports, State removal, liability and penalty actions could not commence. Therefore, while State regulation requiring reports of marine casualties that ultimately cause discharges of oil are preempted, State regulations requiring reports of the discharge itself, or the substantial threat of such a discharge, are not preempted. The Coast Guard proposes to revise the Federalism Statement for this rulemaking as follows:

#### *Revised Federalism Statement*

A rule has implications for Federalism under Executive Order 13132 if the rule 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. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 6101, 7101 and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel certification, manning and the reporting of marine casualties on vessels), and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000)). This proposed rule concerns the reporting of marine casualties, including the reporting of casualties causing significant harm to the marine environment. Because States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

However, the determination that States are precluded from regulating in the category of marine casualties does not impact the ability of a State to require reports of the discharge, or the substantial threat of a discharge of oil. Pursuant to Section 1018 of OPA 90, States retain their rights to impose additional requirements regarding

reports of the discharge or substantial threat of a discharge of oil for the purpose of responding to the discharge or substantial threat of a discharge and instituting liability and compensation proceedings, providing those requirements do not touch on preempted categories described in the Locke decision. Therefore, present and future State discharge reporting requirements that do not touch on the preemptive marine casualty reporting category are unaffected by the Locke decision and this proposed rule, so in that regard, this proposed rule likewise has no implications for Federalism.

#### *Requests for Public Meeting*

We also received comments stating that the Coast Guard should hold a public meeting to address the Federalism section in the NPRM. The Coast Guard believes that this SNPRM addresses these comments and clarifies the Federalism section and that a public meeting will not be necessary.

Dated: May 24, 2001.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 01-17384 Filed 7-11-01; 8:45 am]

**BILLING CODE 4910-15-U**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[TX-134-8-7507; FRL-7011-3]**

#### **Approval and Promulgation of Implementation Plans; Texas; Control of Emissions of Nitrogen Oxides From Stationary Sources in the Houston/Galveston Ozone Nonattainment Area**

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

**ACTION:** Proposed approval.

**SUMMARY:** The EPA is proposing approval of rules into the Texas State Implementation Plan (SIP). This rulemaking covers six separate actions. First, we are proposing to approve revisions to the Texas Nitrogen Oxides (NO<sub>x</sub>) rules for point sources of NO<sub>x</sub> in the Houston/Galveston (H/GA) ozone nonattainment area of Texas as submitted to us by the State on December 22, 2000. These new limits for point sources of NO<sub>x</sub> in the H/GA will contribute to attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in the H/GA 1-hour ozone nonattainment area. Second, we are proposing to exclude Carbon monoxide (CO) and ammonia

emission limits ancillary to the NO<sub>x</sub> standards for post combustion controls found in Title 30 of the Texas Administrative Code (TAC), Chapter 117. Third, we are proposing to approve, by parallel processing, revisions to the Texas NO<sub>x</sub> rules for stationary diesel engines or stationary dual-fuel engines in the H/GA 1-hour ozone nonattainment area. Fourth, we are proposing to approve, through parallel processing, revisions made to the Texas SIP concerning compliance schedules for utility electric generation and Industrial, Commercial, and Institutional (ICI) sources in the H/GA area. Fifth, we are proposing to approve, through parallel processing, revisions made to the Texas SIP concerning lean-burn and rich-burn engines. Sixth, we are listing, not approving, the alternate NO<sub>x</sub> emissions specifications and reductions that the May 30, 2001, revision to the Texas SIP contains.

The EPA is proposing approval of SIP revisions described as actions number one, two, three, four, and five to regulate emissions of NO<sub>x</sub> as meeting the requirements of the Federal Clean Air Act (the Act).

**DATES:** Comments must be received on or before August 13, 2001.

**ADDRESSES:** Your comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the documents about this action including the Technical Support Document, are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency,  
Region 6, 1445 Ross Avenue, Suite  
700, Dallas, Texas 75202-2733.

Texas Natural Resource Conservation  
Commission, Office of Air Quality,  
12124 Park 35 Circle, Austin, Texas  
78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6691, and Shar.Alan@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

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2. What happened to the Texas SIP revision from December 22, 2000, to May 30, 2001?