

corrected to read "section (including the amount limitations)".

3. On page 71825, column 3, § 1.72(p)-1, A-20, paragraph (a)(2), the last line of the paragraph, the language "replaced loan.", is corrected to read "replacement loan.".

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Associate Chief Counsel (Procedure and Administration).*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**33 CFR Parts 1, 3, 5, 45, 51, 52, 53, 66, 109, 114 and 120**

**46 CFR Parts 1 and 68**

[USCG-2003-14505]

### Coast Guard Transition to Department of Homeland Security; Technical Amendments Reflecting Organizational Changes

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule makes technical changes to various parts of titles 33 (Navigation and Navigable Waters) and 46 (Shipping) of the Code of Federal Regulations. These revisions coincide with the scheduled March 1, 2003, transfer of the Coast Guard from the Department of Transportation to the newly created Department of Homeland Security. This rule, which revises existing regulations to reflect organizational changes, has no substantive effect on the regulated public.

**DATES:** This rule is effective March 1, 2003.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, (USCG-2003-14505), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, 20590-0001, 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:** If you have questions on this rule, call James McLeod, Project Manager, Office of Regulations and Administrative Law (G-LRA), Coast Guard, at 202-267-6233. If you have questions on viewing, or submitting material to, the docket, call Dorothy Beard, Chief, Dockets,

Department of Transportation, at 202-366-5149.

**SUPPLEMENTARY INFORMATION:** We did not publish a notice of proposed rulemaking (NPRM) for this rule. The rule consists entirely of agency organization, procedure and practice revisions to various regulations in titles 33 (Navigation and Navigable Waters) and 46 (Shipping) of the Code of Federal Regulations (CFR) in response to enactment of the Homeland Security Act of 2002 (HLSA), Public Law 107-296, 116 Stat. 2135 (2002). Congress has established the Department of Homeland Security (DHS) (section 101 of HLSA) and directed the transfer of the Coast Guard (sections 888 and 1512 of HLSA) from the Department of Transportation to DHS. As indicated in the Department of Homeland Security Reorganization Plan submitted on November 25, 2002, by the President to Congress (under section 1502 of the HLSA), the Coast Guard is scheduled to move to DHS on March 1, 2003.

Because it is technical in nature and relates only to agency organization, procedure and practice, under 5 U.S.C. 553(b)(A), the Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements. These changes will have no substantive effect on the public; therefore, it is not necessary for us to publish an NPRM and provide an opportunity for public comment. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

### Discussion of the Rule

In this rule, we are changing "Department of Transportation" to the "Department of Homeland Security" in specified sections in 33 CFR Chapter I and 46 CFR Chapter I. We have also eliminated references to Department of Transportation delegation regulations (*i.e.*, 49 CFR 1.45 and 1.46) in the text of Coast Guard regulations. And we have updated our rulemaking regulations (33 CFR part 1, subpart 1.05) not only to reflect our transition to DHS but to reflect current agency practice and procedure.

### Regulatory Evaluation

This 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 Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures and non-substantive changes, it will not impose any costs on the public.

### Collection of Information

This rule calls 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 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 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.

### Environment

We have considered the environmental impact of this rule and concluded that, under figure 2-1, paragraphs (34)(a) and (b) of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. These regulations are editorial or procedural and concern internal agency functions and organization. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

### List of Subjects

#### 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

#### 33 CFR Part 3

Organization and functions (Government agencies).

#### 33 CFR Part 5

Volunteers.

#### 33 CFR Part 45

Military personnel, Reporting and recordkeeping requirements.

#### 33 CFR Part 51

Administrative practice and procedure, Military personnel.

#### 33 CFR Part 52

Administrative practice and procedure, Archives and records, Military personnel.

#### 33 CFR Part 53

Administrative practice and procedure, Investigations, Military personnel, Whistleblowing.

#### 33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

#### 33 CFR Part 109

Anchorage grounds.

#### 33 CFR Part 114

Bridges.

#### 33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

#### 46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

#### 46 CFR Part 68

Oil pollution, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 3, 5, 45, 51, 52, 53, 66, 109, 114 and 120, and 46 CFR parts 1 and 68, as follows:

### 33 CFR Chapter I

## PART 1—GENERAL PROVISIONS

1. The authority citation for part 1, subpart 1.05, is revised to read as follows:

**Authority:** 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 2, 631, 632, and 633; and 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.4(b), 1.45(b), and 1.46.

### § 1.01-70 [Amended]

2. In § 1.01-70(e), remove "49 CFR 1.46 (ff) and (gg)."

### § 1.05-1 [Amended]

3. In § 1.05-1—  
a. In paragraph (a), remove the word "Transportation" and add, in its place, the words "Homeland Security";  
b. In paragraph (b), remove the word "Transportation" and add, in its place, the words "Homeland Security"; and remove the last sentence.

### § 1.05-10 [Amended]

4. In § 1.05-10—  
a. In paragraph (a), remove the words "and Department of Transportation

Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations".

b. In paragraph (b), add the word "significant" immediately before the word "regulatory" wherever "regulatory" appears in the paragraph.

### § 1.05-25 [Amended]

5. In § 1.05-25(a), add the following sentences at the end of the paragraph: "Public dockets for rulemakings originating at Coast Guard Headquarters are kept at a Docket Management Facility (DMS) maintained by the Department of Transportation, at the Nassif Building, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001. These dockets are available electronically through the DMS Web site at <http://dms.dot.gov>."

## PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

6. The authority citation for part 3 is revised to read as follows:

**Authority:** 14 U.S.C. 633, Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.45, 1.46.

### § 3.01-1 [Amended]

7. In § 3.01-1(a), remove the words "under the authority delegated by 1.45 and 1.46".

### § 3.01-5 [Amended]

8. In § 3.01-5, remove the words "Sections 1.45 and 1.46 of Title 49, Code of Federal Regulations, authorize" and "Transportation", and add, in their places, respectively, the words "Section 888 of Pub. L. 107-296, 116 Stat. 2135, authorizes" and "Homeland Security".

## PART 5—COAST GUARD AUXILIARY

9. The authority citation for part 5 is revised to read as follows:

**Authority:** 14 U.S.C. 633, 892; Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.46.

### § 5.01 [Amended]

10. In § 5.01(j), remove the word "Transportation" wherever it appears in the paragraph, and add, in its place, the words "Homeland Security".

## PART 45—ENLISTMENT OF PERSONNEL

11. The authority citation for part 45 is revised to read as follows:

**Authority:** 14 U.S.C. 351, 371; Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.46(b).

**§ 45.1 [Amended]**

12. In § 45.1(a), remove the word "Transportation", and add, in its place, the words "Homeland Security".

**PART 51—COAST GUARD DISCHARGE REVIEW BOARD**

13. The authority citation for part 51 is revised to read as follows:

**Authority:** 10 U.S.C. 1553; Pub. L. 107-296, 116 Stat. 2135.

**§ 51.2 [Amended]**

14. In § 51.2(a), remove the word "Transportation", and add, in its place, the words "Homeland Security".

**PART 52—BOARD FOR CORRECTION OF MILITARY RECORDS OF THE COAST GUARD**

15. The authority citation for part 52 is revised to read as follows:

**Authority:** 10 U.S.C. 1552; 49 U.S.C. 108; Pub. L. 101-225, 103 Stat. 1908, 1914; Pub. L. 107-296, 116 Stat. 2135.

**§§ 52.1, 52.2, 52.11, and 52.81 [Amended]**

16. In part 52, remove the word "Transportation", and add, in its place, the words "Homeland Security" in the following places:

- a. Section 52.1;
- b. Section 52.2(a);
- c. Section 52.11(a) and (b);
- d. Section 52.81.

**PART 53—COAST GUARD WHISTLEBLOWER PROTECTION**

17. The authority citation for part 53 is revised to read as follows:

**Authority:** 10 U.S.C. 1034; Pub. L. 100-456, 102 Stat. 1918; Pub. L. 101-225, 103 Stat. 1908; Pub. L. 107-296, 116 Stat. 2135.

**§ 53.3, 53.5, 53.7, and 53.9 [Amended]**

18. In part 53, remove the word "Transportation", and add, in its place, the words "Homeland Security" in the following places:

- a. Section 53.3;
- b. Section 53.5 (Board for Correction of Military Records of the Coast Guard), (Inspector General) and (Secretary).
- c. Section 53.7(a); and
- d. Section 53.9(a) introductory text, and (a)(4).

**PART 66—PRIVATE AIDS TO NAVIGATION**

19. The authority citation for part 66 is revised to read as follows:

**Authority:** 14 U.S.C. 83, 85, 43 U.S.C. 1333; Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.46.

**§ 66.01-3 [Amended]**

20. In § 66.01-3(a), remove the words "Pursuant to the authority in 49 CFR 1.45(b)" and add, in their place, the words "Under Section 888 of Pub. L. 107-296, 116 Stat. 2135".

**PART 109—GENERAL**

21. The authority citation for part 109 is revised to read as follows:

**Authority:** R.S. 4233, as amended, 28 Stat. 647 as amended, 30 Stat. 98, as amended, sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322, 471; 49 U.S.C. 1655(g)(1); Pub. L. 107-296, 116 Stat. 2135; Department of Transportation Order 11001, March 31, 1967, 49 CFR 1.4(a)(3).

**§ 109.07 [Amended]**

22. In § 109.07, remove the citation "49 CFR 1.46(n)(4)", and add, in its place, the citation "Pub. L. 107-296, 116 Stat. 2135,".

**PART 114—GENERAL**

23. The authority citation for part 114 is revised to read as follows:

**Authority:** 33 U.S.C. 401, 491, 499, 521, 525, and 535; 14 U.S.C. 633; 49 U.S.C. 1655(g); Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.46(c).

**§ 114.05 [Amended]**

24. In § 114.05(e), (g), and (i), remove the word "Transportation", and add, in its place, the words "Homeland Security".

**PART 120—SECURITY OF PASSENGER VESSELS**

25. The authority citation for part 120 is revised to read as follows:

**Authority:** 33 U.S.C. 1231; Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.46.

**§ 120.220 [Amended]**

26. In § 120.220(a), remove the word "Transportation", and add, in its place, the words "Homeland Security".

**46 CFR Chapter I****PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS**

27. The authority citation for part 1 is revised to read as follows:

**Authority:** 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.45, 1.46; § 1.01-35 also issued under the authority of 44 U.S.C. 3507.

**§ 1.01-10 [Amended]**

28. In § 1.01-10, —  
a. In paragraph(b)(1), remove the words "Marine Safety and

Environmental" wherever they appear, and add, in their place, the words "Marine Safety, Security, and Environmental", and

b. In paragraph (b)(2), remove the word "Transportation", and add, in its place, the words "Homeland Security".

**PART 68—DOCUMENTATION OF VESSELS PURSUANT TO EXTRAORDINARY LEGISLATIVE GRANTS**

29. The authority citation for part 68 is revised to read as follows:

**Authority:** 46 U.S.C. 2103; Pub. L. 107-296, 116 Stat. 2135; 49 CFR 1.46. Subpart 68.01 also issued under 46 U.S.C. App. 876; subpart 68.05 also issued under 46 U.S.C. 12106(d).

**Subparts 68.01 and 68.05—[Amended]**

30. In part 68, remove the word "Transportation", and add, in its place, the words "Homeland Security" in the following places:

- a. Subpart 68.01 in Appendix A and Appendix B; and
- b. Subpart 68.05 in Appendix A and Appendix B.

Dated: February 25, 2003.

**Robert F. Duncan,**

*Rear Admiral, U.S. Coast Guard, Chief Counsel.*

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

**[CGD08-03-004]**

**RIN 2115-AE47**

**Drawbridge Operating Regulations; Inner Harbor Navigation Canal, New Orleans, LA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Norfolk Southern Railroad bascule bridge across the Inner Harbor Navigation Canal, mile 4.5, in New Orleans, Orleans Parish, Louisiana. This deviation allows the bridge to remain closed to navigation for twenty-four hours from March 19 through March 20, 2003. The deviation is necessary to conduct maintenance to the drawbridge.

**DATES:** This deviation is effective from 7 a.m. on Wednesday, March 19, 2003