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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD08-05-016]

RIN 1625-AA01

Anchorage Regulations; Mississippi River Below Baton Rouge, LA, Including South and Southwest Passes

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the anchorage regulations for the Mississippi River below Baton Rouge, LA, including South and Southwest Passes in order to improve safety at the Lower Kenner Bend Anchorage. This proposed rule is needed to protect aircraft passengers and crew, mariners and the public from the potential safety hazards associated with the ascent and descent of aircraft over vessels anchored in the vicinity of the Louis Armstrong New Orleans International Airport, New Orleans, LA.

DATES: Comments and related material must reach the Coast Guard on or before May 27, 2005.

ADDRESSES: You may mail comments and related material to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA 70131, Attn: Lieutenant Kevin Lynn. The Eighth Coast Guard District Commander 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 Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA 70131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Kevin Lynn, Project Manager for the Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA 70130, telephone (504) 589-6271.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08-05-016], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m), at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Runway 1-19 at the Louis Armstrong New Orleans International Airport is positioned in a north-south line running parallel to the Airport Access Road. Aircraft approaching the runway from the south or departing the runway from the north pass over the Lower Kenner Bend Anchorage. Due to the close proximity of Runway 1-19 to Kenner Bend, aircraft occasionally descend and ascend directly over vessels anchored in the Lower Kenner Bend Anchorage, creating a potentially dangerous situation that is of particular concern during periods of reduced visibility. Aircraft approaching the runway from the south follow a descending glide slope path with a minimum height of 311 feet above mean sea level over the Kenner Bend Anchorage. Certain vessels with cargo handling equipment such as cranes and booms are capable of extending this equipment to a height upwards of 300 feet above the waterline. This amendment to the anchorage regulations for the Mississippi River below Baton Rouge, LA, including South and Southwest Passes is proposed to prohibit vessels that are anchored in the Lower Kenner Bend Anchorage from engaging in cargo transfer operations or exercising any cargo handling equipment such as cranes or booms while at anchor. This proposed amendment is needed to increase safety at Kenner Bend by reducing the potential for collision between aircraft

and vessels anchored in the Lower Kenner Bend Anchorage.

Discussion of Proposed Rule

The Coast Guard proposes to amend the anchorage regulations for the Mississippi River below Baton Rouge, LA, including South and Southwest Passes in order to improve safety at the Lower Kenner Bend Anchorage. This proposed amendment would prohibit vessels that are anchored in the Lower Kenner Bend Anchorage from engaging in cargo transfer operations or exercising any cargo handling equipment such as cranes or booms while at anchor.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to anchor in the Lower Kenner Bend Anchorage. This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: (1) This proposed rule does not prohibit vessels from anchoring in the Lower Kenner Bend Anchorage; and (2) Cargo transfer operations are not typically conducted at the Lower Kenner Bend Anchorage.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Kevin Lynn at (504) 589–6271.

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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This proposed rule would 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, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA).

A draft “Environmental Analysis Check List” and a draft “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 110

Anchorage Regulations.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035 and 2071; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

2. Revise paragraph 110.195(c)(6) to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

* * * * *

(c) * * *

(6) The intention to transfer any cargo while in an anchorage shall be reported to the Captain of the Port, giving particulars as to name of ships involved, quantity and type of cargo, and expected duration of the operation.

The Captain of the Port shall be notified upon completion of operations. Cargo transfer operations are not

permitted in the New Orleans General, Quarantine or Lower Kenner Bend Anchorages. Vessels at anchor in the Lower Kenner Bend Anchorage shall not exercise any cargo handling equipment. Bunkering and similar operations related to ship's stores are exempt from reporting requirements.

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Dated: April 11, 2005.

R. F. Duncan,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05-05-019]

RIN 1625-AA09

Drawbridge Operation Regulations; Kent Island Narrows, Kent Island, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations that govern the operation of the S.R. 18-B Bridge, formerly known as U.S. Route 50/301 Bridge, over Kent Island Narrows, mile 1.0, in Kent Island, MD. The proposal would allow the bridge to open on signal on the hour and half-hour from 6 a.m. to 9 p.m., from May 1 through October 31. The proposed rule will allow for a more efficient flow of vessel traffic.

DATES: Comments and related material must reach the Coast Guard on or before June 13, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004. The Fifth Coast Guard District 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 Commander (obr), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Anton Allen, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6227.

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 CGD05-05-019, 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 a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one public meeting at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Maryland Department of Transportation (MD DOT), who owns and operates this bascule bridge at mile 1.0 across Kent Island Narrows, in Kent Island, MD, requested a change to the current operating procedures set out in 33 CFR Part 117.561, which requires the draw to operate from May 1 through October 31 with the following restrictions: On Monday (except when Monday is a holiday) through Thursday (except when Thursday is the day before a Friday holiday), the draw shall open on signal on the hour from 7 a.m. to 7 p.m., but need not be opened at any other time; On Friday (except when Friday is a holiday) and on Thursday when it is the day before a Friday holiday, the draw shall open on signal on the hour from 6 a.m. to 3 p.m. and at 8 p.m., but need not be opened at any other time; On Saturday and on a Friday holiday, the draw shall open on signal at 6 a.m. and 12 noon and on signal on the hour from 3 p.m. to 8 p.m., but need not open at any other time; On Sunday and on a Monday holiday, the draw shall open on signal on the hour from 6 a.m. to 1 p.m. and at 3:30 p.m., but need not be opened at any other time. In addition, the draw shall open at scheduled opening times only if vessels are waiting to pass. At each opening, the

draw shall remain open for a sufficient period of time to allow passage of all waiting vessels, and if a vessel is approaching the bridge and cannot reach the bridge exactly on the hour, the drawtender may delay the hourly opening up to ten minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

In 1997, MD DOT completed a new high-rise bridge along U.S. Route 50/301, which carries the majority of vehicle traffic, parallel to the drawbridge; this allowed the S.R. 18-B Bridge to operate with fewer restrictions to vessels. MD DOT has inadvertently operated the drawbridge on this proposed schedule since October 31, 1991.

The Coast Guard issued a temporary deviation from May 1, 2004 to July 29, 2004, to test the proposed regulation and solicit comments. The Coast Guard did not receive any comments during the temporary deviation.

This change is being requested to make the operation of the S.R. 18-B Bridge more efficient. In addition, the draw will provide for greater flow of vessel traffic than the current regulation.

Discussion of Proposed Rule

The Coast Guard proposes to change the regulations that govern the operation of the S.R. 18-B Bridge, formerly known as U.S. Route 50/301 Bridge, over Kent Island Narrows, mile 1.0, in Kent Island, MD. The Coast Guard proposes to insert this new specific regulation at 33 CFR § 117.561. The amended regulation would allow the draw of the bridge to open on signal on the hour and half-hour from 6 a.m. to 9 p.m., from May 1 through October 31. Operational information will be provided 24 hours a day by calling 1-800-543-2515.

The Coast Guard proposes to amend 33 CFR 117.561 by revising paragraphs (b) and (c).

The proposal would also change the name of the bridge from “U.S. Route 50/301” to “S.R. 18-B”. The name change would accurately reflect the name of this bridge. The proposal would also remove “commercial vessels” from paragraph (c), as the Coast Guard does not want to distinguish between commercial and recreational vessels. Text modifications would be consistent with the proposed changes to be made in these paragraphs, as appropriate.

Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of