

adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, 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 we are proposing to create an anchorage area.

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 grounds.

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. In § 110.216 add new paragraphs (a)(3) and (b)(6) to read as follows:

#### § 110.216 Pacific Ocean at Santa Catalina Island, Calif.

(a) \* \* \*

(3) *Avalon Bay*. (i) *Anchorage A*. The waters within an area described as follows: A circle of 1350 feet radius centered at latitude 33°20′59.0″ N., longitude 118°18′56.2″ W.

(ii) *Anchorage B*. The waters within an area described as follows: A circle of 1350 feet radius centered at latitude 33°20′38.3″ N., longitude 118°18′35.8″ W.

(iii) *Anchorage C*. The waters within an area described as follows: A circle of 1350 feet radius centered at latitude 33°21′21.0″ N., longitude 118°19′16.7″ W.

(b) \* \* \*

(6) The Avalon Bay anchorage is reserved for large passenger vessels of over 1600 gross tons, unless otherwise authorized by the Captain of the Port Los Angeles-Long Beach.

Dated: October 25, 2004.

**Kevin J. Eldridge,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD08–04–036]

**RIN 1625–AA09**

#### Drawbridge Operation Regulation; St. Croix River, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulation governing the Stillwater Highway Drawbridge, across the St. Croix River at Mile 23.4, at Stillwater, Minnesota. The drawbridge need not open for river traffic and may remain in the closed-to-navigation position from midnight, October 14, 2005 until midnight, March 15, 2006. This proposed rule would allow time to perform maintenance/repairs to the bridge.

**DATES:** Comments and related material must reach the Coast Guard on or before December 6, 2004.

**ADDRESSES:** You may mail comments and related material to Commander, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832. Commander (obr) 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 room 2.107f in the Robert A. Young Federal Building, Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 539–3900, extension 2378.

**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 (CGD08–04–036), 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 the Eighth Coast Guard District, Bridge Branch, 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

On September 13, 2004, the Minnesota Department of Transportation requested a temporary change to the operation of the Stillwater Highway Drawbridge across the St. Croix River, Mile 23.4 at Stillwater, Minnesota to allow the drawbridge to remain in the closed-to-navigation position for 152 consecutive days for critical repairs and maintenance. Navigation on the waterway consists primarily of commercial and recreational watercraft and will not be significantly impacted due to the reduced navigation in winter months. Presently, the draw opens from October 16 until May 14 with 24 hours advance notice for passage of river traffic. The Minnesota Department of Transportation requested the drawbridge be permitted to remain closed-to-navigation from midnight, October 14, 2005 until midnight, March 15, 2006.

#### 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 Homeland Security (DHS).

The Coast Guard expects that this temporary change to operation of the Stillwater Highway Drawbridge will have minimal economic impact on traffic operating on the St. Croix River. This temporary change has been written in such a manner as to allow for minimal interruption of the drawbridge's regular operation.

### 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.

This proposed rule will not have a negligible impact on vessel traffic. The primary users of the St. Croix River in Stillwater, Minnesota, are commercial and recreational vessel operators. With the onset of winter conditions most activity on the St. Croix River is curtailed and there are few, if any, significant navigation demands for opening the drawspan.

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.

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.

### 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 could 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 Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 2378.

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

### Taking of Private Property

This proposed rule will not affect 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 does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

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

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this 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 (32)(e), of the Instruction, from further environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this proposed regulation

would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A "Categorical Exclusion Determination" is available in the docket for inspection or copying 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From midnight, October 14, 2005, until midnight March 15, 2006, in § 117.667 suspend paragraph (b) and add a new paragraph (d) to read as follows:

#### § 117.667 St. Croix River.

\* \* \* \* \*

(d) The Stillwater Highway Drawbridge, Mile 23.4, St. Croix River, at Stillwater, need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: October 8, 2004.

J.W. Stark,

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 04–023]

RIN 1625–AA00

#### Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone in the navigable waters of the Mission Creek Waterway in China Basin surrounding the construction site of the Fourth Street Bridge, San Francisco, California. This temporary safety zone is necessary to protect persons and vessels

from hazards associated with bridge construction activities scheduled to last from February 15, 2005 to December 31, 2005. The safety zone will temporarily prohibit use of the Mission Creek Waterway surrounding the Fourth Street Bridge; specifically, no persons or vessels will be permitted to come within 100 yards of either side of the bridge or pass beneath the bridge during construction, unless authorized by the Captain of the Port, or his designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before January 4, 2005.

**ADDRESSES:** You may mail comments and related material to the Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California 94501. The Waterways Management Branch 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 the Waterways Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Doug Ebberts, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

#### 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 (COTP San Francisco 04–023), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this 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 the Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we

determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

#### Background and Purpose

The San Francisco Department of Public Works is requesting a waterway closure on Mission Creek for the purpose of performing significant work to the Fourth Street Bridge. The Fourth Street Bridge was erected across the Mission Creek Waterway at the China Basin in 1917, and was determined eligible for listing in the National Register of Historic Places in 1985 as part of the California Department of Transportation (Caltrans) Historic Bridge Inventory. Caltrans, Division of Structures, evaluated the Fourth Street Bridge and recommended that the bridge be brought up to current seismic safety standards. The three objectives of the rehabilitation project are to: (1) Seismically retrofit the structure while not significantly altering the historical appearance of the bridge; (2) repair the damage to the concrete approaches and several steel and concrete members of the movable span, and (3) reinstate light rail service across the bridge. The Federal Highway Administration, the State of California and the City of San Francisco are funding the Fourth Street Bridge Retrofit Project.

The first phase of this project included the removal of the lift span, which took place between May 1 and July 28, 2003. During that period, the channel was closed at the Fourth Street Bridge to boating traffic by a temporary final rule that was published in the **Federal Register** on May 13, 2003 (68 FR 25500) and a subsequent change in effective period temporary final rule that was published on July 9, 2003 (68 FR 40772). Those two rules established a safety zone that extended 100 yards on either side of the Fourth Street Bridge. The second phase of the construction project includes rebuilding the north and south approaches and the new counterweight and its enclosing pit; but does not require that the waterway be closed to boating traffic. The safety zone being proposed in this rule is for the last phase of construction, which includes replacing the lift span and aligning the bridge to accept the light rail track system. This final phase is scheduled to begin on February 15, 2005, and end on December 31, 2005. The proposed safety zone of 100 yards on either side of the Fourth Street Bridge is needed during this period to protect boating traffic public from the dangers posed by the construction operations and to allow the construction operations to be completed.