

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 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; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. § 117.445 is revised to read as follows:

§ 117.445 Franklin Canal.

The draw of the Chatsworth Bridge, mile 4.8 at Franklin, shall open on signal from 5 a.m. to 9 p.m. if at least one hour notice is given. From October 1 through January 31 from 9 p.m. to 5 a.m., the draw shall be opened on signal if at least three hours notice is given. From February 1 through September 30 from 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

Dated: November 28, 2009.

Mary E. Landry,
Rear Admiral, U.S. Coast Guard Commander,
Eighth Coast Guard District.

[FR Doc. E9–29748 Filed 12–14–09; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–1029]

Drawbridge Operation Regulation; Grassy Sound Channel, Middle Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District has issued a temporary deviation from the regulations governing the operation of the Grassy Sound Channel Bridge (County Route 619), mile 1.0, at Middle Township, NJ. The deviation restricts the operation of the draw span to facilitate the cleaning and painting of the structure.

DATES: This deviation is effective from 5 a.m. on April 1, 2010 until 5 p.m. on May 15, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–1029 and are available online by going to <http://www.regulations.gov>, inserting USCG–2009–1029 in the “Keyword” box and then clicking “Search”. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District; telephone 757–398–6587, e-mail Terrance.A.Knowles@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Cape May County Bridge Commission, who owns and operates this bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.721 to facilitate the cleaning and painting of the bridge structure.

The Grassy Sound Channel Bridge (CR–619), at mile 1.0, in Middle Township NJ has a vertical clearance in the closed position to vessels of 15 feet above mean high water (MHW).

Under normal operating conditions, two hours advance notice is required to open the draw of the Grassy Sound Channel Bridge. Under this temporary deviation, the Grassy Sound Channel Bridge will be maintained in the closed-to-navigation position beginning at 5 a.m. on April 1, 2010 until and including 5 p.m. on May 15, 2010.

The drawbridge will open in the event of an emergency. Vessels that can pass under the bridge without a bridge opening may do so at all times. Vessels with mast height greater than 15 feet have an alternate route by transiting approximately two miles away at the nearby County of Cape May Bridge across Great Channel between Stone Harbor and Nummy Island NJ.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 1, 2009.

Waverly W. Gregory, Jr.,
Chief, Bridge Administration Branch, By
Direction of the Commander, Fifth Coast
Guard District.

[FR Doc. E9–29749 Filed 12–14–09; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

[Docket No. USCG–2009–0273]

RIN 1625–AB41

Amendment to the List of MARPOL Annex V Special Areas That Are Currently in Effect To Add the Gulfs and Mediterranean Sea Special Areas

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: By this final rule, the Coast Guard amends the list of special areas in effect under Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, as amended, (MARPOL) to include the Gulfs and Mediterranean Sea special areas. The current list of special areas in effect is now outdated because it does not list these two special areas. The Coast Guard must update its regulations to harmonize its list of special areas with MARPOL Annex V. This rule will correct the list of special areas in effect to provide accurate information to the public.

DATES: This final rule is effective December 15, 2009.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0273 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2009–0273 in the “Keyword” box, and then clicking “Search.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. David Major, Coast Guard Environmental Standards Division (CG-5224); telephone 202-372-1431, e-mail *David.W.Major@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

- I. Abbreviations
- II. Regulatory History
- III. Background
- IV. Discussion of the Rule
- V. Regulatory Analyses
 - A. Regulatory Planning and Review
 - B. Small Entities
 - C. Assistance for Small Entities
 - D. Collection of Information
 - E. Federalism
 - F. Unfunded Mandates Reform Act
 - G. Taking of Private Property
 - H. Civil Justice Reform
 - I. Protection of Children
 - J. Indian Tribal Governments
 - K. Energy Effects
 - L. Technical Standards
 - M. Environment

I. Abbreviations

APPS Act To Prevent Pollution From Ships, 33 U.S.C. 1901 *et seq.*
 CFR Code of Federal Regulations
 DHS Department of Homeland Security
 FR Federal Register
 IMO International Maritime Organization
 MARPOL The International Convention for the Prevention of Pollution From Ships, 1973, as Modified by the Protocol of 1978
 MEPC Marine Environmental Protection Committee
 NPRM Notice of Proposed Rulemaking
 OMB Office of Management and Budget
 RFA Regulatory Flexibility Act
 U.S.C. United States Code

II. Regulatory History

The Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM for the revision of the rule because this final rule is non-substantive, in that it merely updates in the Coast Guard's regulations the list of special areas currently in effect, as established by the International Maritime Organization (IMO) in accordance with the procedures described in 33 CFR 151.53(b). 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**.

Good cause exists when publication would be impracticable, unnecessary, or contrary to the public interest. Here,

publishing an NPRM and delaying the effective date are unnecessary because the change being made is a conforming amendment required by existing authority and because an opportunity for public comment has already been provided.

Publishing an NPRM and delaying the effective date are unnecessary because this rulemaking merely restates a legal responsibility already in effect under MARPOL and the Act to Prevent Pollution from Ships (codified at 33 U.S.C. 1901 *et seq.*) (APPS), which is the U.S. authority implementing MARPOL. When APPS became law, the United States accepted the IMO process for bringing special areas into effect and, for convenience, the Coast Guard listed the special areas currently in effect in the CFR. Since then, two more of the special areas have come into effect through the IMO process. This rulemaking corrects the list at 33 CFR 151.53 to accurately list the special areas currently in effect.

Another reason publishing an NPRM is unnecessary is because opportunity for public comment on the regulations related to APPS, including the IMO process for bringing special areas into effect, was provided in 1989. The original APPS regulations in 33 CFR parts 151, 155, and 158 were implemented through a full informal rulemaking process, including an Advance Notice of Proposed Rulemaking (53 FR 23884, June 24, 1988), an Interim Rule with Request for Comments (54 FR 18384, April 28, 1989), and a Final Rule (55 FR 35986, September 4, 1990) (APPS rulemaking). The Coast Guard held three public meetings, received public comments, and responded to all comments received. The Coast Guard received no comments on the Gulfs or Mediterranean special areas or on the IMO process for bringing special areas into effect, there have been no substantive changes regarding these special areas since the APPS rulemaking. This rulemaking also does not make any such substantive changes.

III. Background

A MARPOL Annex V special area is a sea area where, for recognized technical reasons, the adoption of special mandatory methods for the prevention of sea pollution by garbage is required. The Coast Guard is updating the APPS regulations at 33 CFR part 151 to reflect that two special areas already defined by MARPOL Annex V are now in effect. A special area under MARPOL Annex V enters into effect on the date set by the International Maritime Organization. The IMO sets an effective date after it receives sufficient

notification of port reception facility adequacy from coastal states bordering a special area. In a special area prior to its effective date, 33 CFR 151.69 (Operating requirements: Discharge of garbage outside special areas) applies. In a special area after its effective date, the more restrictive requirements of 33 CFR 151.71 (Operating Requirements: Discharge of garbage within special areas) apply.

The two special areas that this rulemaking addresses and their corresponding effective dates are:

- The Gulfs area, as defined in Regulation 5(e) of MARPOL Annex V, in effect as of August 1, 2008 (Marine Environmental Protection Committee (MEPC) 56/23); and
- The Mediterranean Sea area, as defined in Regulation 5(a) of MARPOL Annex V, in effect as of May 1, 2009 (MEPC 57/21).

Both of these special areas entered into force (but not effect) on December 31, 1988, as agreed to by Parties to MARPOL Annex V. As of the above effective dates, the discharge of garbage from vessels in these areas is restricted to the discharge of food wastes only (*i.e.*, subject to the restrictions of MARPOL Annex V, Regulation 5 and 33 CFR 151.71).

These special areas are already defined at 33 CFR 151.06. However, the Gulfs and Mediterranean Sea special areas must be added to the list of special areas in effect at 33 CFR 151.53. The more restrictive requirements of 33 CFR 151.71 only apply within special areas, and enforcement by the Coast Guard is limited to vessels subject to U.S. jurisdiction.

IV. Discussion of the Rule

This final rule modifies 33 CFR 151.53 to add the Gulfs and Mediterranean Sea special areas to the list of special areas in effect to be consistent with MARPOL and to clarify where the discharge restrictions of 33 CFR 151.71 (Operating Requirements: Discharge of garbage within special areas) apply. This modification will take effect upon publication.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

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.

The Coast Guard does not expect this rule to impose an additional burden on the U.S. maritime industry. The Gulfs and Mediterranean Sea special area requirements currently apply to all U.S. vessels under MARPOL Annex V. Vessels of all signatories to MARPOL on international voyages, including U.S. flagged vessels, are required to adhere to these standards regardless of whether this rule is promulgated. Because industry is currently required to adhere to the MARPOL Annex V special area requirements, this modification to 33 CFR 151.33 is not expected to impose a burden on industry.

The primary benefit of this rule is to provide consistent information on MARPOL Annex V special area requirements in order to increase the regulated community's awareness of the requirements. The secondary benefit is more efficient regulations through greater consistency between U.S. domestic regulations and MARPOL Annex V.

B. Small Entities

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider whether regulatory actions 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. An RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). The Coast Guard has determined that this rule is exempt from notice and comment rulemaking pursuant to 5 U.S.C. 553(b)(B). Therefore, an RFA analysis is not required for this rule. The Coast Guard, nonetheless, expects that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine

compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

D. 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).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, 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. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

F. 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 (adjusted for inflation) 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.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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. 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.

L. Technical Standards

The National Technology Transfer and Advancement Act (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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42

U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 6(b) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” (67 FR 48243, July 23, 2002). An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under the **ADDRESSES** section of this preamble.

List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 151 as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 1. The authority citation for part 151 continues to read:

Authority: 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

■ 2. Amend § 151.53 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 151.53 Special areas for Annex V of MARPOL 73/78.

(a) For the purposes of §§ 151.51 through 151.77, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the Gulfs area, the North Sea area, the Antarctic area, and the Wider Caribbean region, including the Gulf of Mexico and the Caribbean Sea which are described in § 151.06.

* * * * *

(c) The discharge restrictions are in effect in the Mediterranean Sea, Baltic Sea, the North Sea, the Gulfs and the Antarctic special areas.

Dated: November 24, 2009.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. E9–29747 Filed 12–14–09; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Advertisements for Animals and Sharp Instruments for Use in Animal Fighting Ventures are Nonmailable

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 601.9.3.1, 601.11.20, and 601.12.5.7, to align our standards with section 26 of the Animal Welfare Act as amended by the Food, Conservation, and Energy Act of 2008.

DATES: *Effective Date:* February 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Collins at 202–268–5440.

SUPPLEMENTARY INFORMATION: On June 18, 2008, Congress enacted the Food, Conservation, and Energy Act of 2008 (the 2008 Act) which amended certain provisions of the Animal Welfare Act pertaining to animal fighting ventures. The 2008 Act’s amendments added prohibitions on using the mail service of the United States (1) to advertise an animal for use in an animal fighting venture, or (2) to advertise a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture. The 2008 Act also revised the definition of the term “animal fighting venture” to refer to “any event, in or affecting interstate or foreign commerce” involving a fight “conducted or to be conducted” between at least two animals. To implement the 2008 Act’s amendments and to ensure that our standards comport with the current language in section 26 (7 U.S.C. 2156) of the Animal Welfare Act (AWA), we are implementing the new standards.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553 (b), (c)], regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invited public comments on the following proposed revision of the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR part 111.

Comments Received

The Postal Service received comments from six parties. Three commenters supported the rule as proposed by the Postal Service without modification. Other comments were submitted as follows:

One commenter suggested for the US Postal Service to decline adopting the Humane Society’s proposed change to section 601.12.5.7 of the DMM. We noted that the suggested change to proposed section 601.12.5.7 is not explicitly supported by the text of subsections 2156(c) and (d) in 7 U.S.C. 2156 (the AWA). In the absence of further guidance from the text of the statute, we decline to adopt the suggested change.

One commenter urged the Postal Service not to adopt the proposed rule on the grounds that the proposed rule violates the First Amendment of the U.S. Constitution. The proposed rule only implements the statutory language set forth in 7 U.S.C. 2156, therefore we find that the comment is beyond the scope of this rulemaking.

Finally, another commenter appears to object to the exception in proposed section 601.12.5.7 for fighting ventures involving live birds if such fight is permitted under the laws of the state in which the fight is to take place. The commenter suggests that no states permit animal fighting. We note that paragraph 2156(g)(3) in Title 7, U.S. Code, provides that the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. We understand that at least one of these jurisdictions continues to permit fights involving live birds. Therefore, we decline to modify the exception to proposed section 601.12.5.7 of the DMM for fighting ventures involving live birds that are permitted under the laws of the state in which the fight is to take place. The other issues raised by the commenter are beyond the scope of this rulemaking.

The Postal Service hereby adopts the following changes to the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), which is incorporated by reference in the *Code of Federal Regulations*. See 39 CFR Part 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR Part 111 is amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.