

Labor, 200 Constitution Avenue, NW, Washington, DC 20210, pursuant to Section 3 of the Negotiated Rulemaking Act of 1990, 104 Stat. 4969, Title 5 U.S.C. 561 *et seq.*; and section 3(40) of ERISA (Pub. L. 97-473, 96 Stat. 2611, 2612, 29 U.S.C. 1002(40)) and section 505 (Pub. L. 93-406, 88 Stat. 892, 894, 29 U.S.C. 1135) of ERISA, and under Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Signed at Washington, DC, this 9th day of April 1998.

**Olena Berg,**

*Assistant Secretary, Pension and Welfare Benefits Administration.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 66

[USCG-1998-3604]

RIN 2115-AF50

#### Amendment of State Waters for Private Aids to Navigation in Wisconsin and Alabama

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The U.S. Coast Guard proposes to reestablish Federal jurisdiction over certain waterways in the State of Alabama and expand state jurisdiction of certain waterways in the State of Wisconsin for the purposes of Private Aids to Navigation. This action is being taken to implement a request from the State of Alabama and an agreement between the State of Wisconsin and the Coast Guard, and to ensure, safe navigation on the affected waterways.

**DATES:** Comments must reach the Coast Guard on or before June 15, 1998.

**ADDRESSES:** You may mail comments to the Docket Management Facility, USCG-1998-3604, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001, or deliver them to room PL-401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL-401,

located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Paulette Twine, Chief, Documentary Services Division, Department of Transportation, telephone (202) 366-9329, for questions on the docket, or for questions on this notice contact, Mr. Dan Andrusiak, G-OPN-2 at (202) 267-0327.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Coast Guard encourages you to submit written data, views, or arguments. If you submit comments, you should include your name and address, identify this notice USCG-1998-3604 and the specific section or question in this document to which your comments apply, and give the reason for each comment. Please submit one copy of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want us to acknowledge receiving your comments, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

The Coast Guard may schedule a public meeting depending on input received in response to this notice. You may request a public meeting by submitting a request to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If the Coast Guard determines that a public meeting should be held, it will hold the meeting at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

On March 26, 1971, the Coast Guard and the State of Alabama signed an agreement giving the State of Alabama control over certain of its waterways for the purposes of private aids to navigation. On April 1, 1981, Mr. William Garner, Director, Marine Police Division for the State of Alabama, sent a letter to the Chief of the Eighth Coast Guard District Aids to Navigation branch asking that the original agreement of March 26, 1971, be discontinued. Mr. Garner stated that no follow-up had been done on the agreement and therefore that the agreement had never been implemented.

The Coast Guard proposes this change to comply with the State of Alabama's request and to ensure that discrepancies in aids to navigation can be quickly corrected. This rule also proposes to implement an agreement between the Coast Guard and the State of Wisconsin changing the reference date for designation of State waters for private aids to navigation from November 17, 1969, to May 1, 1996.

This rule change proposes two things for the purpose of Private Aids to Navigation. First, by removing Paragraph § 66.05-100(a) it will reestablish Federal jurisdiction over certain waterways in the State of Alabama. Second, by amending paragraph § 66.05-100(j) the State of Wisconsin will expand state jurisdiction over Lake Winnebago, the Fox River, and various other waterways in their regulatory system.

##### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget 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). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard considers whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 606(b) that the proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. This conclusion was reached by conferring with Aids to Navigation personnel at the affected districts and having received assurance that this rule change would not cause any significant economic impact on small business. In accordance with section 213(a) of the Small

Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effect on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact LCDR John Fidaleo, G-OPN-2 at (202) 267-0346.

#### Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

#### Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined this proposal does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under paragraph 2.B.2.e(23) and (34)(i) of Commandant Instruction M16475.1B, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 66

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

For the reasons set forth in the preamble, the Coast Guard proposes to amend 33 CFR part 66 as follows:

#### PART 66—[AMENDED]

1. The authority citation for part 66 continues to read as follows:

**Authority:** 14 U.S.C. 83, 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. In § 66.05-100, remove paragraph (a), and redesignate paragraphs (b) through (j) as paragraphs (a) through (i), and revise newly designated paragraph (i) to read as follows:

**§ 66.05-100 Designation of navigable waters as State waters for private aids to navigation.**

\* \* \* \* \*

(i) *Wisconsin*. Navigable waters within the State not marked with Coast Guard aids to navigation as of May 1, 1996.

Dated: March 27, 1998.

**Ernest R. Riutta,**

*Assistant Commandant for Operations.*

[FR Doc. 98-9922 Filed 4-14-98; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 117

[CGD08-94-028]

RIN 2115-AE47

##### Drawbridge Operating Regulation; Kelso Bayou, LA

**AGENCY:** Coast Guard, DOT.

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

**SUMMARY:** The Coast Guard is proposing a change to the regulation governing the operation of the State Route 27 swing span drawbridge across Kelso Bayou, mile 0.7, at Hackberry, Cameron Parish, Louisiana. The change will require four hours advance notification at night from May 20 through December 22. The change will increase the advance notification from four hours to 24 hours from December 23 through May 19. This action would provide relief to the bridge owner and still provide for the reasonable needs of navigation.

**DATES:** Comments must be received on or before June 15, 1998.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. Commander (ob) maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Frank, Bridge Administration Branch, telephone number 504-589-2965.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Coast Guard encourages interested persons to participate in this proposed rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD08 94-028) and the specific section of this document to which each comment applies, and give the reason for each

comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Eighth Coast Guard District at the address under ADDRESSES. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

#### Regulatory History

On October 4, 1994, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (59 FR 50528). The NPRM proposed a change to the advance notification prior to opening the bridge. The proposed requirement was as follows:

a. From about May 25 (the beginning of shrimp season as set by the state yearly), until October 31, the bridge would open on signal from 7 a.m. to 7 p.m. and open on four hours notice from 7 p.m. to 7 a.m.

b. From November 1 through December 22, the draw would open on signal from 7 a.m. to 3 p.m. and from 3 p.m. to 7 a.m. open on four hours notice.

c. From December 22, until about May 25, the draw would open on 24 hours notice.

Presently the bridge opens on signal from May 25, until December 22. Alternate routes are available.

The Coast Guard received four letters in response to the NPRM. One of the letters was from a business owner whose business was dependent upon access by waterway users to deliver their product to his facility. He stated that the change would force a closure of his business. The applicant and the bridge owner began discussions to attempt to resolve their differences, but were unable to reach any agreement. Since that time, the business owner has sold his business. Subsequently, the business has closed completely. The Louisiana Department of Transportation and Development (LDOTD) has resubmitted a proposal requesting a new operating schedule.