

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal author of these regulations is Emily M. Lesniak, Office of the Associate Chief Counsel (Procedure and Administration).

#### List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

#### PART 300—USER FEES

**Paragraph 1.** The authority citation for part 300 continues to read in part as follows:

**Authority:** 31 U.S.C. 9701.

**Par. 2.** Section 300.0 is amended by:

1. Redesignating paragraph (b)(9) as paragraph (b)(12).
2. Adding new paragraph (b)(9).
3. Adding paragraphs (b)(10) and (b)(11).

The additions and revisions read as follows.

#### § 300.0 User fees; in general.

\* \* \* \* \*

(b) \* \* \*

(9) Taking the special enrollment examination to become an enrolled retirement plan agent.

(10) Enrolling an enrolled retirement plan agent.

(11) Renewing the enrollment of an enrolled retirement plan agent.

\* \* \* \* \*

**Par. 3.** Section 300.4 is amended by revising the heading to read as follows:

#### § 300.4 Enrolled agent special enrollment examination fee.

\* \* \* \* \*

**Par. 4.** Section 300.5 is amended by revising paragraphs (b) and (d) to read as follows:

#### § 300.5 Enrollment of enrolled agent fee.

\* \* \* \* \*

(b) *Fee.* The fee for initially enrolling as an enrolled agent with the IRS Office of Professional Responsibility is \$30.

\* \* \* \* \*

(d) *Effective/applicability date.* This section is applicable the date that final regulations are published in the **Federal Register**.

**Par. 5.** Section 300.6 is amended by revising paragraphs (b) and (d) to read as follows:

#### § 300.6 Renewal of enrollment of enrolled agent fee.

\* \* \* \* \*

(b) *Fee.* The fee for renewal of enrollment as an enrolled agent with the IRS Office of Professional Responsibility is \$30.

\* \* \* \* \*

(d) *Effective/applicability date.* This section is applicable the date that final regulations are published in the **Federal Register**.

#### § 300.9 [Redesignated as § 300.12]

**Par. 6.** Redesignate § 300.9 as § 300.12.

**Par. 7** Add new § 300.9 to read as follows:

#### § 300.9 Enrolled retirement plan agent special enrollment examination fee.

(a) *Applicability.* This section applies to the special enrollment examination to become an enrolled retirement plan agent pursuant to 31 CFR 10.4(b).

(b) *Fee.* The fee for taking the enrolled retirement plan agent special enrollment examination is \$11 per part, which is the cost to the government for overseeing the examination and does not include any fees charged by the administrator of the examination.

(c) *Person liable for the fee.* The person liable for the enrolled retirement plan agent special enrollment examination fee is the applicant taking the examination.

(d) *Effective/applicability date.* This section is applicable the date that final regulations are published in the **Federal Register**.

**Par. 7.** Section 300.10 is added to read as follows:

#### § 300.10 Enrollment of enrolled retirement plan agent fee.

(a) *Applicability.* This section applies to the initial enrollment of enrolled retirement plan agents with the IRS Office of Professional Responsibility pursuant to 31 CFR 10.5(b).

(b) *Fee.* The fee for initially enrolling as an enrolled retirement plan agent with the IRS Office of Professional Responsibility is \$30.

(c) *Person liable for the fee.* The person liable for the enrollment fee is the applicant filing for enrollment as an enrolled retirement plan agent with the IRS Office of Professional Responsibility.

(d) *Effective/applicability date.* This section is applicable the date that final regulations are published in the **Federal Register**.

**Par. 8.** Section 300.11 is added to read as follows:

#### § 300.11 Renewal of enrollment of enrolled retirement plan agent fee.

(a) *Applicability.* This section applies to the renewal of enrollment of enrolled retirement plan agents with the IRS Office of Professional Responsibility pursuant to 31 CFR 10.5(b).

(b) *Fee.* The fee for renewal of enrollment as an enrolled retirement plan agent with the IRS Office of Professional Responsibility is \$30.

(c) *Person liable for the fee.* The person liable for the renewal of enrollment fee is the person renewing enrollment as an enrolled retirement plan agent with the IRS Office of Professional Responsibility.

(d) *Effective/applicability date.* This section is applicable the date that final regulations are published in the **Federal Register**.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2010–31033 Filed 12–7–10; 4:15 pm]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2010–0794]

RIN 1625–AA11

#### Regulated Navigation Area; Hudson River South of the Troy Locks, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a Regulated Navigation Area (RNA) on the navigable waters of the Hudson River in New York, south of the Troy Locks. This action is necessary to promote navigational safety, provide for the safety of life and property, and facilitate the reasonable demands of commerce. This action would impose restrictions on vessels operating within the waters of the Hudson River south of the Troy Locks when ice is a threat to navigation.

**DATES:** Comments and related material must be received by the Coast Guard on or before January 10, 2011. Requests for public meetings must be received by the Coast Guard on or before December 27, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG–2010–0794 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax*: 202-493-2251.

(3) *Mail*: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery*: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Chief Warrant Officer Kary Moss, Coast Guard Sector New York Waterways Management Division; telephone 718-354-4117, e-mail [Kary.L.Moss@uscg.mil](mailto:Kary.L.Moss@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

*Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG-2010-0794), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the

body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2010-0794" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

*Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2010-0794" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

*Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

*Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one on or before December 27, 2010 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

**Basis and Purpose**

Historically ice has been an impediment to navigation during certain times of the year on the navigable waters of the Hudson River south of the Troy Locks. West Point, Crum Elbow, Esopus Meadows, Stuyvesant Anchorage, Hudson Anchorage, Silver Point, and Hyde Park are all natural choke points on the Hudson River where ice buildup has the potential to severely restrict vessel traffic.

There are several situations faced by vessels during severe winter conditions that can place the vessels, passengers, and crew in great danger including being beset in the ice and ice accretion, where ice forms on the superstructure and decks of transiting vessels thereby affecting the vessel's stability. Ice may also cause significant damage to propellers, rudders, and hull plating.

The formation of ice on the Hudson River is subject to many variables and is not consistent from year to year. During a moderate or severe winter, the frozen waterways may impede a vessel's ability to maneuver. Once ice build-up begins it can affect the transit of vessels on the navigable waterways. In addition a vessel's watertight integrity may also be compromised by ice abrasion and ice pressure on the vessel's hull.

Ice floes on the navigable waterways may also cause visual aids to navigation to become submerged, destroyed, or moved off station. Ice conditions on the navigable waterways may create hazardous conditions in which the operations of certain vessels become unsafe.

Previous ice seasons have shown that vessels with less than 3000 horsepower, while engaged in towing operations, have significant difficulty transiting the Hudson River in locations where ice thickness is on average eight inches or greater. This difficulty in transiting the Hudson River during ice buildup poses a safety threat to the environment and a potential hazard to navigation.

It sometimes becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. During the 2009-2010 ice navigation season the Coast Guard promulgated a Temporary Final Rule that established an RNA for that period. That rule established restrictions similar to those that the Coast Guard proposes in this rule. This proposed rule allows the Coast Guard to restrict and manage vessel movement when hazardous ice conditions exist within a specified area of the Hudson River.

## Discussion of Proposed Rule

The Coast Guard proposes to establish a Regulated Navigation Area on the navigable waters of the Hudson River south of the Troy Locks. The Regulated Navigation Area is intended to restrict vessels with less than 3000 horsepower (HP) engaged in towing operations from operating on the Hudson River south of the Troy Locks when ice thickness is on average eight inches or greater, unless authorized by the Captain of the Port (COTP) New York or a designated representative.

The COTP New York will notify mariners of the location and thickness of the ice as well as any restrictions via marine broadcast, Local Notices to Mariners, and VTS New York. For the purpose of this rule, the definition of horsepower in 46 CFR 10.107 applies.

When the ice thickness reaches an average of eight inches or greater on the Hudson River along reported routes, vessels of less than 3,000 HP engaged in towing operations would not be authorized to transit unless in conjunction with scheduled Coast Guard icebreaking operations in the area, or operating with an assist tug or as part of a convoy, or specifically authorized by the COTP New York.

Operators of vessels that do not meet the criteria of the operating restrictions, but who believe that they have the capability to operate in ice safely, may seek a waiver from the COTP New York to continue operating. Waivers may be requested by calling telephone number (718) 354-4356 or on VHF channel 13 or 16.

## Regulatory Analyses

We developed this proposed 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.

### *Regulatory Planning and Review*

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.

The Coast Guard's implementation of the proposed Regulated Navigation Area will only be enforced at the location on the navigable waters of the Hudson River south of the Troy Locks where ice conditions on average are eight inches or greater, and only restrict vessels that are less than 3,000 horsepower while engaged in towing operations.

Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the navigable waters of the Hudson River. Furthermore, vessels affected by this restriction may be authorized to transit the zone with permission of the Captain of the Port New York. Requests to transit may be made by calling telephone number (718) 354-4356 or on VHF channel 13 or 16.

### *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 will affect the following entities, some of which may be small entities: The owners and operators of tugs with engines below 3,000 total horsepower attempting to transit the Hudson River in cold weather months when ice thickness is on average eight inches or greater.

This RNA would not have a significant economic impact on a substantial number of small entities for the following reasons: Tugs with less than 3,000 total horsepower have historically been unable to transit the Hudson River when ice thickness is on average eight inches or greater. Operators have generally taken these vessels out of service or use vessels that are capable of operating in such conditions. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the river.

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 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, contact CWO Kary Moss at 718-354-4117. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### *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 (adjusted for inflation) or more in any one year. Though this proposed rule would 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 would not cause 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 does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed 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

(NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing a Regulated Navigation Area restricting tugs with less than 3,000 total horsepower from transiting the Hudson River when ice thickness is on average eight inches or greater. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.165 to read as follows:

#### § 165.165 Regulated Navigation Area; Hudson River south of the Troy Locks, New York.

(a) *Regulated navigation area.* All navigable waters of the Hudson River south of the Troy Locks.

(b) *Definitions.* The following definitions apply to this section:

(1) Designated representative means any Coast Guard commissioned, warrant, or petty officer, or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port (COTP) New York.

(2) Horsepower (HP) means the total maximum continuous shaft horsepower of all the vessel's main propulsion machinery.

(c) *Applicability.* This section applies to tugs with less than 3,000 horsepower when engaged in towing operations.

(d) *Regulations.* (1) Except as provided in paragraph (c)(3) of this section, vessels less than 3,000 horsepower while engaged in towing operations are not authorized to transit that portion of the Hudson River south of the Troy Locks when ice thickness on average is eight inches or greater.

(2) All Coast Guard assets enforcing this Regulated Navigation Area can be contacted on VHF marine band radio, channel 13 or 16. The COTP can be contacted at (718) 354-4356, and the public may contact the COTP to suggest changes or improvements in the terms of this Regulated Navigation Area.

(3) All persons desiring to transit through a portion of the regulated area that has operating restrictions in effect must contact the COTP at telephone number (718) 354-4356 or on VHF channel 13 or 16 to seek permission prior to transiting the affected regulated area.

(4) The COTP will notify the public of any changes in the status of this Regulated Navigation Area by Marine Safety Information Broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz).

Dated: November 29, 2010.

**Daniel A. Neptun,**

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

[FR Doc. 2010-31118 Filed 12-9-10; 8:45 am]

**BILLING CODE 9110-04-P**

#### DEPARTMENT OF TRANSPORTATION

#### Surface Transportation Board

#### 49 CFR Parts 1030-1039

[Docket No. EP 707]

#### Demurrage Liability

**AGENCY:** Surface Transportation Board (Board or STB).

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** Through this Advance Notice of Proposed Rulemaking (ANPR), the Board is instituting a proceeding regarding demurrage, *i.e.*, charges for holding rail cars. The agency's intent is to adopt a rule or policy statement addressing when parties should be responsible for demurrage in light of current commercial practices followed by rail carriers, shippers, and receivers. **DATES:** Comments are due by January 24, 2011. Reply comments are due by February 23, 2011.

**ADDRESSES:** Comments and replies may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation