



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 117, 161, and 164

46 CFR Part 4

[Docket No. USCG-2013-0466]

Overhead Clearance (Air-Draft) Accidents

AGENCY: Coast Guard, DHS.

ACTION: Request for comments on petition for rulemaking.

SUMMARY: The Coast Guard seeks public comment on a petition that requests the Coast Guard to initiate a rulemaking to address the problem of overhead clearance (air-draft) accidents. In its petition, which calls for vessel masters to be provided with accurate vertical air draft information, a maritime organization has described 16 overhead clearance accidents that it says were avoidable and that resulted in damage to or destruction of waterway infrastructure and inconvenienced the public. The Coast Guard will consider all comments received in response to this notification in determining whether or not to initiate the requested rulemaking.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.], or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2013-0466 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 notice, contact LCDR William Nabach, Office of Vessel

and Facility Operating Standards (CG-OES-2), U.S. Coast Guard Headquarters, at telephone 202-372-1386, or by e-mail at William.A.Nabach@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 submit comments and related material on the rulemaking petition described below regarding Overhead Clearance (Air-Draft) Accidents. 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 notice (USCG-2013-0466) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. 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>, and follow the instructions on that website. The following link will take you directly to the docket where you may submit your comment:

<http://www.regulations.gov/#!docketDetail;D=USCG-2013-0466>.

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 them 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.

Viewing the rulemaking petition and comments: To view the petition and comments that have been submitted to the docket, go to <http://www.regulations.gov>, and follow the instructions on that website. The following link will take you directly to the docket:

<http://www.regulations.gov/#!docketDetail;D=USCG-2013-0466>.

If you do not have access to the internet, you may view the docket in person by visiting 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, system of records notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Description of Petition for Rulemaking

In its Petition for Rulemaking dated May 22, 2013, the National Mariners Association (NMA) describes 16 separate marine casualties involving allisions with overhead structures which it identifies as resulting from inaccurate or non-existent air draft data available to the master of the vessel. NMA views these allisions as avoidable and noted that they resulted in unnecessary damage to or destruction of waterway infrastructure and inconvenienced the public.

Air Draft determination.

NMA requests that the Coast Guard establish regulations to require (1) the permanent marking of maximum design air draft for masts and booms on stationary vessel

apparatus, and (2) the owner or operator to mark all crane or derrick barges with the maximum air draft or otherwise provide this maximum air draft information in writing to any vessel contracted to tow the barge. (See p. 4 of the Petition.) The petitioner identifies the vessel owner or operator as the responsible party for providing accurate vertical air draft information, for both the vessel and its tow, to the master of a vessel prior to conducting underway operations. (See pp. 3, 4 & 16 of the Petition.)

The petitioner notes that masters of towing vessels are greatly affected by this air-draft issue particularly because the barges they tow have cargo with significant and dynamic air draft requirements. (See pp. 5 & 7 of the Petition.) Moreover, the petitioner states that the master often lacks the necessary equipment to accurately assess the true vertical clearances. (See pp. 5 & 11 of the Petition.) Lacking such capacities, the mariner then estimates the height of their vessel or towed barges as best he or she can. (See p. 3 of the Petition.) The petitioner recommends a regulation to require that the Master of a towing vessel be provided with the air draft of the vessel, and that before a tow begins, the Master is provided with the air draft of the tow. The Petition states that ensuring that those persons directing and

controlling the movement of towing vessels know the maximum overhead clearance (air draft) for their vessel and the barges in their tow will enable them to avoid trying to pass under bridges when there is insufficient clearance. (See p. 4 of Petition.)

Voyage Planning.

NMA further notes that a professional pre-sailing survey may be required to protect waterway infrastructure. The petitioner recommends that the Coast Guard amend what NMA views as "severely qualified" language in 33 CFR 164.80 so that it covers all towing vessels. Paragraph (c) of § 164.80 requires the master to check the planned route for proximity to hazards before the voyage begins and that the voyage plan must consider "vertical clearances (air-gaps) for all bridges, ports, and berthing areas." (See pp. 4 & 6 of Petition.)

Towing Safety Advisory Committee.

The petitioner requested this issue be submitted to the Towing Safety Advisory Committee (TSAC). (See NMA submission to TSAC Meeting Notice docket USCG-2013-0605.) TSAC is a Federal advisory committee under 5 U.S.C. App. (Pub. L. 92-463). It was established under authority of 33 U.S.C. 1231a and advises the Secretary of Homeland Security on matters relating to shallow-draft inland and coastal

waterway navigation and towing safety. The Coast Guard agreed with the petitioner and has tasked TSAC with reviewing the issue and providing recommendations with respect to towing vessels. See September 2013 TSAC meeting notice (78 FR 49543, 49544, August 14, 2013) and copy of Task #13-10, Recommendation to Establish Criteria for Identification of Air Draft for Towing Vessels and Tows, which is available in the docket for this notice.

Request for Comments

We invite you to review the petition in the docket and submit relevant comments, including comments on whether a rulemaking would be beneficial, or not. The Coast Guard will consider the petition, any comments received from the public, and other information to determine whether or not to initiate the requested rulemaking.

This notice is issued under authority of 5 U.S.C. 552(a) & 553 (e), and 33 CFR 1.05-20.

Dated: November 27, 2013

F. J. STURM
Acting Director of Commercial Regulations and Standards
U. S. Coast Guard

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