Example 3. X is a qualified REIT subsidiary of Y under the provisions of section 856(i). In 2001, Z, a domestic corporation that reports its taxes on a calendar year basis, merges into X in a state law merger. Z was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, X is the successor to Z and is liable for all of Z's debts. In 2004, the IRS seeks to extend the period of limitations on assessment for Z's 2000 taxable year. Because X is the successor to Z and is liable for Z's 2000 taxes that remain unpaid, X is the proper party to sign the consent to extend the period of limitations.

(c) *Effective date.* This section applies on or after April 1, 2004.

Par. 3. Section 1.1361–4 is amended as follows:

1. In paragraph (a)(1), the first sentence is amended by adding the language ''and (a)(6)'' immediately following the language ''Except as otherwise provided in paragraph (a)(3)''.

2. Paragraph (a)(6) is added.

The addition reads as follows:

§ 1.1361–4 Effect of Qsub election.

(a) * * *

(6) *Treatment of certain QSubs*—(i) *In general.* A QSub, even though it is otherwise not treated as a corporation separate from the S corporation, is treated as a separate corporation for purposes of:

(A) Federal tax liabilities of the QSub with respect to any taxable period for which the QSub was treated as a separate corporation.

(B) Federal tax liabilities of any other entity for which the QSub is liable.

(C) Refunds or credits of Federal tax.

(ii) *Examples.* The following examples illustrate the application of paragraph (a)(6)(i) of this section:

Example 1. X has owned all of the outstanding stock of Y, a domestic corporation that reports its taxes on a calendar year basis, since 2001. X and Y do not report their taxes on a consolidated basis. For 2003, X makes a timely S election and simultaneously makes a QSub election for Y. In 2004, the Internal Revenue Service (''IRS'') seeks to extend the period of limitations on assessment for Y's 2001 taxable year. Because Y was treated as a separate corporation for its 2001 taxable year, Y is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1,* except that in 2004, the IRS determines that Y miscalculated and underreported its income tax liability for 2001. Because Y was treated as a separate corporation for its 2001 taxable year, the deficiency for Y's 2001 taxable year may be assessed against Y and, in the event that Y fails to pay the liability after notice and demand, a general tax lien will arise against all of Y's property and rights to property.

Example 3. X is a QSub of Y. In 2001, Z, a domestic corporation that reports its taxes on a calendar year basis, merges into X in a state law merger. Z was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, X is the successor to Z and is liable for all of Z's debts. In 2003, the IRS seeks to extend the period of limitations on assessment for Z's 2000 taxable year. Because X is the successor to Z and is liable for Z's 2000 taxes that remain unpaid, X is the proper party to execute the consent to extend the period of limitations on assessment.

(iii) *Effective date.* This paragraph (a)(6) applies on or after April 1, 2004.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 5. Section 301.7701–2 is amended as follows:

1. Paragraph (c)(2)(iii) is added.

2. Paragraph (e) is revised.

The additions and revisions read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(c) * * *

(2) * * *

(iii) *Tax liabilities of certain disregarded entities*—(A) *In general.* An entity that is otherwise disregarded as separate from its owner is treated as an entity separate from its owner for purposes of:

(*1*) Federal tax liabilities of the entity with respect to any taxable period for which the entity was not disregarded.

(*2*) Federal tax liabilities of any other entity for which the entity is liable.

(*3*) Refunds or credits of Federal tax.

(B) *Examples.* The following examples illustrate the application of paragraph (c)(2)(iii)(A) of this section:

Example 1. In 2001, X, a domestic corporation that reports its taxes on a calendar year basis, merges into Z, a domestic LLC wholly owned by Y that is disregarded as an entity separate from Y, in a state law merger. X was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, Z is the successor to X and is liable for all of X's debts. In 2004, the Internal Revenue Service (''IRS'') seeks to extend the period of limitations on assessment for X's 2000 taxable year. Because Z is the successor to X and is liable for X's 2000 taxes that remain unpaid, Z is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1,* except that in 2002, the IRS determines that X miscalculated and underreported its income tax liability for 2000. Because Z is the successor to X and is liable for X's 2000 taxes that remain unpaid, the deficiency may be assessed against Z and, in the event that Z fails to pay the liability after notice and demand, a general tax lien will arise against all of Z's property and rights to property.

* * * * *

(e) *Effective date.* (1) Except as otherwise provided in this paragraph (e), the rules of this section apply as of January 1, 1997, except that paragraph (b)(6) of this section applies on or after January 14, 2002, to a business entity wholly owned by a foreign government regardless of any prior entity classification, and paragraph (c)(2)(ii) of this section applies to taxable years beginning after January 12, 2001. The reference to the Finnish, Maltese, and Norwegian entities in paragraph (b)(8)(i) of this section is applicable on November 29, 1999. The reference to the Trinidadian entity in paragraph (b)(8)(i) of this section applies to entities formed on or after November 29, 1999. Any Maltese or Norwegian entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999, may elect by February 14, 2000, to be classified for Federal tax purposes as an entity other than a corporation retroactive to any period from and including January 1, 1997. Any Finnish entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999, may elect by February 14, 2000, to be classified for Federal tax purposes as an entity other than a corporation retroactive to any period from and including September 1, 1997.

(2) Paragraph (c)(2)(iii) of this section applies on or after April 1, 2004.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 04–7088 Filed 3–31–04; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CCGD11–04–002]

RIN 1625–AA01

Anchorage Regulation; San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create an anchorage ground adjacent to

existing Anchorage 8 that can be used by Coast Guard Vessel Traffic Services (VTS) when the number of vessels requesting to anchor in Anchorages 8 and 9 exceeds the capacity of these two anchorages. This area has been used twice in the past and the Captain of the Port has recognized the potential for needing this anchorage ground in the future. Having the anchorage ground published in the **Federal Register** will allow the Coast Guard to define its use and location, and establish procedures for notifying the maritime public.

DATES: Comments and related material must reach the Coast Guard on or before June 1, 2004.

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 Ebbers, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (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 (CCGD11–04–002), 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

Due to the trend toward larger ships arriving in San Francisco Bay and the growth of faster marine transportation systems, use of Anchorages 8 and 9 in San Francisco Bay has increased. In addition to more vessels needing to anchor while awaiting the departure of other vessels at berth, periodic labor strikes and disputes have caused delays in the turnaround time of cargo, and filled Anchorages 8 and 9 to capacity. On two occasions, Vessel Traffic Services San Francisco has used an anchorage ground around Anchorage 8 to accommodate vessels when the safe capacity of Anchorages 8 and 9 has been exceeded. According to 33 CFR 160.5, Commanding Officers, Vessel Traffic Services are delegated authority under 33 CFR 1.01–30 to issue anchorage orders to vessels required to participate in a Vessel Traffic Service.

In this proposed rulemaking, to address the continuing need for additional anchorage space, the Coast Guard is proposing to create a new anchorage ground 8A, which can be used by VTS San Francisco when needed.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 110.224 to add Anchorage 8A, which can be used as needed by VTS San Francisco. This anchorage ground, located immediately west and south of existing Anchorage 8, will allow VTS San Francisco to accommodate the safe anchoring of vessels when the safe capacity of Anchorages 8 and 9 has been exceeded.

Regulatory Evaluation

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. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The effect of this regulation will not be significant because the anchorage will only be used when unusual circumstance require that it be activated, recreational traffic can still traverse the anchorage area when necessary, and the temporary anchorage area only takes up a small portion of San Francisco Bay. In addition, this temporary anchorage area has been used twice in the past to accommodate vessels during labor disputes that resulted in anchorages 8 and 9 being filled to capacity.

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 would not have a significant economic impact on a substantial number of small entities for the reasons discussed in the Regulatory Evaluation above.

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 (Public Law 104–121), we offer to assist small entities in understanding the proposed rule so that they could better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Doug Ebbers, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–3073.

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 proposed rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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.

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 proposed rule is not an economically significant rule and does 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.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, 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 changing an anchorage regulation.

A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' will be 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 proposed 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 § 110.224—

a. In paragraph (d), revise Table 110.224(D)(1) by adding immediately following entry for Anchorage No. 8, a new entry for Anchorage No. 8A and add a new note n'' to notes at the end of the table and;

b. In paragraph (e), renumber paragraphs (6) through (21) as paragraphs (7) through (22) and add new paragraph (e)(6) to read as follows:

§ 110.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters, CA.

* * * * *

(d)(1) * * *

TABLE 110.224(D)(1)

Anchorage No.	General location	Purpose	Specific regulations
* * * * * * *			
8A	.....do	.....do	Notes a, b, c, n.
* * * * * * *			

Notes: * * *.

n. This anchorage ground will be activated by VTS San Francisco when Anchorages 8 and 9 are at capacity and additional anchorage capacity in the vicinity of Alameda is required. VTS will notify a vessel that this anchorage is activated and available for use when anchorages 8 and 9 are full, and a vessel requests permission from VTS to anchor in anchorage 8 or 9.

(e) * * *

(6) Anchorage No. 8A. In San Francisco Bay bounded by the following lines: Beginning at latitude 37°47′35.5″ N and longitude 122°21′50″ W; thence south-southwesterly to latitude 37°47′05″ N and longitude 122°22′07.5″ W; thence south-southeasterly to latitude 37°46′30″ N and longitude 122°21′56″ W; thence easterly along the northern border of Anchorage 9 to

latitude 37°46′21.5″ N and longitude 122°19′07″ W; thence northerly to latitude 37°46′34.5″ N and longitude 122°19′05.5″ W; thence westerly to latitude 37°46′36.5″ N and longitude 122°19′52″ W; thence westerly along the southern border of anchorage 8 to latitude 37°46′40″ N and longitude 122°21′23″ W; thence northwesterly along the southwestern border of anchorage 8 back to the beginning point (NAD 83).

* * * * *

Dated: March 1, 2004.

Kevin J. Eldridge,

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

[FR Doc. 04–7273 Filed 3–31–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–04–010]

RIN 1625–AA09

Drawbridge Operation Regulation; Bayou Portage, Pass Christian, MS

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating requirements for the Henderson Avenue bascule span bridge, across Bayou Portage at Pass Christian, Mississippi. Presently, the bridge is required to open on signal. The proposed rule would require that a two-hour advance notice be provided for an opening of the draw to navigation.

DATES: Comments and related material must reach the Coast Guard on or before June 30, 2004.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130–3310. The Commander, Eighth Coast Guard District, Bridge Administration 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 Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone 504–589–2965.

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 [CGD08–04–010], 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. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration 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

The old low-level Henderson Avenue bascule span bridge, across Bayou Portage at Pass Christian, Mississippi, has been demolished and removed and the new, mid-level bascule span bridge is being constructed on the exact same alignment. The new bridge will be opened to traffic and placed in service on April 10, 2004. The old bridge provided a vertical clearance of 11 feet above mean high water in the closed-to-navigation position and a horizontal clearance of 70 feet between fenders. The replacement mid-level bascule span bridge provides a vertical clearance of 29.5 feet above mean high water in the closed-to-navigation position with a horizontal clearance of 75.5 feet between fenders.

A special operating regulation previously existed for the old bridge, which stated that the draw of the bridge would open on signal if at least two hours notice was given. When the old bridge was removed, the special operating regulation was removed. When the new bridge is completed and placed in service, it would normally be required to open on signal as per 33 CFR 117.5.

Since the new bridge provides significantly greater vertical clearance in the closed-to-navigation position than the old bridge, the Harrison County Board of Supervisors predicts that even fewer navigation openings will be required than was required for the old bridge and that it is not necessary to have the bridge manned 24 hours per day seven days per week. Therefore, they have requested that a two-hour notice requirement for an opening to navigation be authorized for the new bridge.

The Coast Guard agrees that the previous opening requirements are appropriate for the new bridge. A temporary rule [CGD08–04–007] is being published elsewhere in today's **Federal Register** to authorize the proposed schedule for a six-month period from April 10, 2004 through October 10, 2004, to allow the new bridge to operate under the same requirements that existed for the old bridge. The temporary rule provides that during this period, the draw of the Henderson Avenue bascule span bridge across Bayou Portage, mile 2.0 at Pass Christian, MS will open on signal if at least two hours notice is given to the Harrison County Board of Supervisors. During this period, the Coast Guard is requesting public comments on the effects of the proposed 2-hour notice requirement for openings of the draw to navigation and will gather data on the number of vessels passing through the bridge each day, and the number requiring and not requiring an opening. The Coast Guard will review the data including logs of drawbridge openings and evaluate public comment to help determine if the proposed permanent special drawbridge operating regulation isappropriate.

Navigation at the site of the bridge consists primarily of recreational pleasure craft, including sailing vessels, and tugs with barges in tow which service one concrete facility upstream of the bridge. Alternate routes are not available to marine traffic.

Discussion of Proposed Rule

The proposed rule change to 33 CFR part 117 would require that a two-hour notice be given to the Harrison County Board of Supervisors for the bridge to be opened to navigation.

Regulatory Evaluation

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. It is not