



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2015-0038]

RIN 1625-AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to disestablish 13 anchorage grounds and 1 special anchorage area that are now obsolete in Newark Bay, the East River, Western Long Island Sound, Raritan Bay, and Lower New York Bay. It also proposes to reduce the size of three anchorage grounds in Raritan, Sandy Hook, and Lower New York Bays. This proposed rulemaking is necessary due to the increased size and draft of current commercial vessels operating in the Captain of the Port New York zone, as the existing anchorages have insufficient water depths to accommodate these vessels; the exposure of these anchorages to winds, tides, and currents; and changes in recreational vessel usage patterns in Newark Bay. This proposed rulemaking would provide a higher degree of vessel and environmental safety by reducing the risk of vessels grounding in shallow water, and

accurately reflect the anchorages currently in use.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2015-0038 using the following Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of proposed rulemaking, contact Mr. Craig Lapiejko, Waterways Management at Coast Guard First District, telephone 617-223-8351, e-mail [craig.d.lapiejko@uscg.mil](mailto:craig.d.lapiejko@uscg.mil) or Mr. Jeff Yunker, Coast Guard Sector New York Waterways Management Division, U.S. Coast Guard; telephone 718-354-4195, e-mail [jeff.m.yunker@uscg.mil](mailto:jeff.m.yunker@uscg.mil).

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
SAA	Special Anchorage Area
USACE	United States Army Corps of Engineers
USCP	United States Coast Pilot
WAMS	Waterways Analysis and Management System

II. Background, Purpose, and Legal Basis

Anchorage grounds were originally established by the

(USACE) on April 25, 1907, pursuant to an Act of Congress approved May 16, 1888. This information was published in the 1909 (USCP) Atlantic Coast, Part IV, From Point Judith to New York, Fifth Edition. Anchorage regulation duties and powers were transferred to the Coast Guard in 1967 (32 FR 17726, Dec. 12, 1967)

The special anchorage areas (SAAs) were originally established by the USACE and first published in the USCP in 1960. The USCP is a series of nine nautical books published by the National Oceanic and Atmospheric Administration (NOAA) that encompasses a wide variety of information important to navigators of U.S. waters. The USCP is intended to be used as a supplement to NOAA nautical charts. Topics covered include anchorage grounds, SAAs, and specific anchoring regulations governing their usage.

The legal basis for this rule is: 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define anchorage grounds and special anchorage areas.

The specific reasons for this rulemaking are to disestablish 13 anchorage grounds and 1 SAA that are now obsolete and reduce the size of three anchorage grounds that are no longer used by commercial or recreational mariners. The

intended purpose of this rulemaking is to reduce the risk of vessels grounding in shallow water and accurately reflect the anchorages currently in use. The USACE New York District was consulted on this regulation and had no objections.

### III. Discussion of Proposed Rule

This proposed rule would disestablish five obsolete anchorage grounds in Newark Bay described in 33 CFR 110.155(h)(1) and (h)(3) through (6). During our 2012 WAMS review of Newark Bay, we announced in First Coast Guard District Local Notice to Mariners that we were considering disestablishing anchorage ground numbers 34, 36, 37, 38, and 39. We received one comment that these anchorage grounds should be retained and dredged to a depth of not less than 12 feet at mean low water so vessels could anchor within their boundaries. These anchorage grounds are not a federal project under the jurisdiction of the USACE and thus will not be dredged to a depth that is usable by most commercial vessels.

During this 2012 WAMS we also sought comment on the proposed disestablishment of the Newark Bay Southeast and Newark Bay Southwest SAAs described in 33 CFR 110.60(d)(1) and (2). We received no comments that these SAAs are used or that they should be retained. These proposed revisions were advertised to the public in the First Coast Guard District Local Notice to Mariners number 50 in 2011 (dated December 14, 2011) through

number 24 in 2012 (dated June 13, 2012). During a 2014 site visit to the Robbins Reef Yacht Club in Bayonne, NJ, the Coast Guard was notified by a club member that the Newark Bay Southeast SAA is still in use. Based on those comments we are no longer considering disestablishing the Newark Bay Southeast SAA. We are, however, proposing to disestablish the Newark Bay Southwest SAA, § 110.60(d)(2).

This proposed rule would disestablish seven obsolete anchorage grounds in Western Long Island Sound and the East River described in 33 CFR 110.155(a)(2) through (7), and (b)(2). During our 2013 WAMS review of New Rochelle Harbor, Manhasset and Little Neck Bays we announced in the First Coast Guard District Local Notice to Mariners that we were considering disestablishing anchorage ground numbers 1-A, 1-B, 2, 3, 4, 5, and 7. We received no comments that these anchorage grounds are being used or that they should be retained. These proposed revisions were advertised to the public in the First Coast Guard District Local Notice to Mariners number 48 in 2012 (dated November 28, 2012) through number 25 in 2013 (dated June 19, 2013).

This proposed rule would also disestablish obsolete anchorage ground number 46 in Raritan Bay described in 33 CFR 110.155(j)(4). Additionally, this proposed rule would reduce the size of anchorage ground number 28 described in 33 CFR

110.155(f)(3) and anchorage ground number 47 described in 33 CFR 110.155(j)(5) in Raritan and Lower New York Bays. Portions of these two reduced anchorage grounds would be incorporated into revised anchorage grounds, number 26, which would also be reduced in size, described in 33 CFR 110.155(f)(1), and revised anchorage ground, number 28, in Raritan and Lower New York Bays described in 33 CFR 110.155(f)(3). The existing anchorage ground numbers 26, 28, 46, and 47 cover approximately 59.307 square nautical miles. The proposed revised anchorage ground numbers 26 and 28 would cover approximately 7.877 square nautical miles. In addition, this proposed rule would update the coordinates to 1983 datum for Anchorage Ground number 27 in the Atlantic Ocean described in 33 CFR 110.155(f)(2).

This rulemaking would also remove regulations regarding navigation and mooring in the vicinity of the Naval Ammunition Depot Pier at Leonardo, NJ, in existing 33 CFR 110.155(f)(1)(i) and (ii) because these requirements are already codified at 33 CFR 165.130. During our 2014 WAMS review of Raritan Bay, we announced in the First Coast Guard District Local Notice to Mariners we considering disestablishing anchorage ground numbers 46 and 47. We received no comments that these anchorage grounds are being used or that they should be retained in their current configurations. These proposed revisions were advertised to the public in the First Coast Guard District Local Notice to

Mariners number 07 in 2014 (dated February 19, 2014) through number 26 in 2014 (dated July 2, 2014).

#### IV. Regulatory Analyses

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

##### A. 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, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We do not expect this proposed rule to have a significant impact because it is administrative in nature and would not alter current navigational practices on the affected waterways.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor within these portions of Newark Bay; the East River near Little Bay; Western Long Island Sound between Throgs Neck, Sands Point, and Larchmont Harbor; and Raritan and Lower New York Bays.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: this rule would only codify current navigation practices on the affected waterways. Neither the proposed disestablishment of anchorage grounds nor the size reductions would affect vessels' schedules or their abilities to freely transit near these areas within the Captain of the Port New York zone. The water available in the anchorage grounds to be disestablished is too shallow for most commercial vessels to anchor within and the anchorage grounds in western Long Island Sound and East River are currently unusable as they are exposed to weather, tides, and currents that do not provide a safe

anchorage.

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.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. 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.

#### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States,

on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this proposed rule does not have tribal implications under E.O. 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

#### E. 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.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, 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. This proposed rule involves disestablishing 13 obsolete anchorage grounds and 1 obsolete SAA, and reducing the size of two anchorage grounds and combining them into one smaller anchorage ground. This rule may be categorically excluded from further review under paragraph 34(f) of Figure 2-1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places, or vessels.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions. Documents mentioned in this document, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act

notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086). Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard proposes 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, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.  
§ 110.60 [Amended]

2. In § 110.60:

a. Remove paragraph (d)(2) and redesignate paragraphs (d)(3) through (10) as paragraphs (d)(2) through (9), respectively.

b. Amend the note to newly redesignated paragraph (d)(2) by removing "paragraph (d)(3)" and adding "paragraph (d)(2)" in its

place.

3. In § 110.155:

a. Remove and reserve paragraph (a) (2) and remove paragraphs (a) (3) through (7);

b. Remove and reserve paragraph (b) (2);

c. Revise paragraph (f);

d. Remove and reserve paragraph (h);

e. Revise paragraph (j) (2); and

f. Remove paragraphs (j) (3) through (5).

The revisions read as follows:

§ 110.155 Port of New York.

\* \* \* \* \*

(f) Lower Bay, Raritan Bay, Sandy Hook Bay, and Atlantic Ocean--(1) Anchorage No. 26. In Raritan and Sandy Hook Bays all waters bound by the following points: 40°30'06.74"N, 074°10'04.96"W; thence to 40°28'59.44"N, 074°05'00.00"W; thence to 40°28'44.94"N, 074°05'00.00"W; thence to 40°29'05.02"N, 074°07'30.56"W; thence to 40°29'17.49"N, 074°10'16.50"W; thence to the point of origin (NAD 83).

(2) Anchorage No. 27. In the Atlantic Ocean all waters bound by the following points: 40°28'49.27"N, 074°00'12.13"W; thence to 40°28'52.12"N, 074°00'00.56"W; thence to 40°28'40.88"N, 073°58'51.95"W; thence to 40°25'57.91"N, 073°54'55.56"W; thence to 40°23'45.55"N, 073°54'54.89"W; thence

to 40°23'45.38"N, 073°58'32.10"W; thence along the shoreline to the point of origin (NAD 83).

(3) Anchorage No. 28. In Lower Bay all waters bound by the following points: 40°30'02.30"N, 074°08'52.69"W; thence to 40°29'10.10"N, 074°04'59.65"W; thence to 40°29'09.99"N, 074°02'57.75"W; thence to 40°31'52.89"N, 074°02'39.89"W; thence to 40°31'59.72"N, 074°03'25.13"W; thence to 40°31'28.57"N, 074°03'40.70"W; thence to 40°30'26.24"N, 074°05'11.46"W; thence to 40°30'19.01"N, 074°06'21.37"W; thence to 40°30'21.53"N, 074°08'46.19"W; thence to the point of origin (NAD 83).

\* \* \* \* \*

(j) \* \* \*

(2) Anchorage No. 45. West of the Raritan Bay Channel leading into Arthur Kill; north of the Raritan River Channel leading into Raritan River; and east of the Cutoff Channel between Raritan River and Arthur Kill, except that part of the said area occupied by Anchorage No. 44.

(i) Vessels must not anchor in the channel to Keyport Harbor west of lines ranging from Keyport Channel Buoy 1 to Keyport Channel Buoy 9, thence through Keyport Channel Buoys 11 and 13 to the northeast corner of the easterly steamboat wharf; and east of a line extending from a point 400 yards west of Keyport Channel Buoy 1 tangent to the west shore at the mouth of Matawan Creek.

(ii) [Reserved]

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Dated: October 14, 2015.

K. C. Keifer,  
Captain, U.S. Coast Guard,  
Acting, Commander First Coast Guard District.

[FR Doc. 2015-30056 Filed: 11/24/2015 8:45 am; Publication Date: 11/25/2015]