



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: Final rule.

SUMMARY: The Coast Guard is disestablishing thirteen anchorage grounds and one special anchorage area that are now obsolete in Newark Bay, the East River, Western Long Island Sound, Raritan Bay, and Lower New York Bay, and reducing the size of three anchorage grounds in Raritan, Sandy Hook, and Lower New York Bays.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2015-0038 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Craig Lapiejko, Waterways Management Branch at Coast Guard First District, telephone 617-223-8351, e-mail 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.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
USACE	United States Army Corps of Engineers
USCP	United States Coast Pilot
U.S.C.	United States Code
WAMS	Waterways Analysis and Management System

II. Background Information and Regulatory History

In 2012, the Coast Guard conducted a WAMS survey of these anchorage regulations within Newark Bay. In 2013, the Coast Guard conducted a WAMS survey of these anchorage regulations within New Rochelle Harbor, Manhasset, and Little Neck Bays. In 2014, the Coast Guard conducted a WAMS survey of these anchorage regulations within Raritan Bay. In response, on November 25, 2015, the Coast Guard published an NPRM titled Anchorage Regulations; Port of New York (80 FR 73692). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to these anchorage regulations. During the comment period that ended January 25, 2016, we received one comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The First Coast Guard District Commander has determined that potential hazards associated with vessels anchoring in the shallow water of these charted anchorage grounds will be a safety concern for vessels constrained by their draft. The purpose of this rule is to reduce the risk of vessels

grounding in shallow water and accurately reflect the anchorages currently in use.

IV. Discussion of Comments, Changes, and the Rule

This rule disestablishes thirteen anchorage grounds and one special anchorage area that are now obsolete in Newark Bay, the East River, Western Long Island Sound, Raritan Bay, and Lower New York Bay, and reduces the size of three anchorage grounds in Raritan, Sandy Hook, and Lower New York Bays.

As noted above, we received one comment on our NPRM published November 25, 2015. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The Office of Coast Survey, National Oceanic and Atmospheric Administration (NOAA) strongly recommended that the coordinates for the disestablished anchorage grounds be published within the final rule. These coordinates follow:

Coordinates for Disestablished Special Anchorage Area:

33 CFR 110.60(d)(2) New York Harbor Newark Bay, Southwest. All waters bound by the following points: 40°38'52.1" N, 074°09'41.1" W; thence to 40°38'51.6" N, 074°10'18.2" W; thence to 40°38'51.0" N, 074°10'36.5" W; thence to 40°39'16.8" N, 074°09'56.3" W; thence to 40°39'16.2" N, 074°09'36.9" W; thence to the point of origin, excluding therefrom the "Pipe Line Area".

Coordinates for Disestablished Anchorage Grounds:

33 CFR 110.155 Port of New York.

- (a)(2) Anchorage Ground No. 1-A: All waters southwest of a line from 40°54'27.36"N, 073°46'04.16"W to 40°54'01.65"N, 073°45'23.02"W. All waters northwest of a line from 40°54'01.65"N, 073°45'23.02"W, thence to 40°53'30.65"N, 073°46'05.30"W. All

waters north of a line from 40°53'30.65"N, 073°46'05.30"W thence to 40°53'21.35"N, 073°46'38.52"W.

- (a)(3) Anchorage Ground No. 1-B: All waters west and north of the following lines: from 40°54'58.06"N, 073°44'51.82"W; thence to 40°54'10.69"N, 073°45'10.48"W; thence to 40°54'26.89"N, 073°46'04.84"W.
- (a)(4) Anchorage Ground No. 2: All waters west of a line from 40°48'56.58"N, 073°47'52.98"W; thence to 40°48'27.38"N, 073°47'29.20"W.
- (a)(5) Anchorage Ground No. 3: All waters northeast of a line from 40°50'54.57"N, 073°44'16.64"W; thence to 40°51'28.94"N, 073°44'49.11"W. All waters southeast of a line from 40°51'28.94"N, 073°44'49.11"W; thence to 40°52'07.26"N, 073°44'15.41"W. All waters southwest of a line from 40°52'07.26"N, 073°44'15.41"W; thence to 40°51'57.80"N, 073°43'47.86"W.
- (a)(6) Anchorage Ground No. 4: All waters northeast of a line from 40°49'00.62"N, 073°45'41.92"W; thence to 40°49'28.17"N, 073°46'29.31"W. All waters southeast of a line from 40°49'28.17"N, 073°46'29.31"W; thence to 40°51'28.94"N, 073°44'49.11"W. All waters southwest of a line from 40°51'28.94"N, 073°44'49.11"W; thence to 40°50'54.57"N, 073°44'16.64"W.
- (a)(7) Anchorage Ground No. 5: All waters east of a line from 40°47'40.53"N, 073°46'28.93"W; thence to 40°49'18.69"N, 073°46'12.69"W. All waters south of a line from 40°49'18.69"N, 073°46'12.69"W; thence to 40°49'00.62"N, 073°45'41.92"W.
- (b)(2) Anchorage Ground No. 7: All waters south of a line from 40°48'03.24"N, 073°49'11.46"W; thence to 40°47'41.80"N, 073°46'58.77"W.

- (h)(1) Anchorage Ground No. 34: All waters bound by the following points: 40°38'51.5" N, 074°10'35.6" W; thence to 40°39'20.2" N, 074°09'50.8" W; thence to 40°39'41.4" N, 074°09'30.2" W; thence to 40°39'29.6" N, 074°08'58.0" W; thence to 40°39'21.7" N, 074°08'50.8" W; thence to 40°39'08.0" N, 074°08'58.9" W; thence to 40°38'49.9" N, 074°09'20.0" W; thence to 40°38'53.5" N, 074°09'37.1" W; thence to 40°38'52.0" N, 074°09'41.6" W; thence to the point of origin (NAD 83).
- (h)(3) Anchorage Ground No. 36: All waters bound by the following points: 40°41'13.1" N, 074°08'06.1" W; thence to 40°41'12.7" N, 074°08'09.9" W; thence to 40°40'51.0" N, 074°08'29.7" W; thence to 40°40'44.7" N, 074°08'29.8" W; thence to 40°40'34.0" N, 074°08'12.0" W; thence to 40°40'36.6" N, 074°08'04.8" W; thence to 40°40'54.5" N, 074°07'56.5" W; thence to 40°41'03.3" N, 074°07'56.5" W; thence to the point of origin (NAD 83).
- (h)(4) Anchorage Ground No. 37: All waters bound by the following points: 40°41'40.66"N, 074°06'38.63"W; thence to 40°41'51.85"N, 074°07'01.88"W; thence to 40°39'16.54"N, 074°08'33.79"W; thence to 40°39'16.68"N, 074°08'25.82"W, thence along the shoreline to point of origin (NAD 83).
- (h)(5) Anchorage Ground No. 38: All waters bound by the following points: 40°43'05.57"N, 074°06'08.36"W; thence to 40°42'40.39"N, 074°06'48.46"W; thence to 40°42'35.47"N, 074°06'53.93"W; thence to 40°42'24.34"N, 074°06'59.31"W; thence to 40°42'20.79"N, 074°06'59.76"W; thence to 40°42'11.44"N, 074°06'55.73"W; thence to 40°42'03.86"N, 074°07'00.66"W; thence to 40°41'52.53"N, 074°07'01.56"W; thence to 40°41'41.33"N, 074°06'38.05"W, thence along the shoreline to point of origin (NAD 83).

- (h)(6) Anchorage Ground No. 39: All waters bound by the following points:
40°43'20.60"N, 074°07'11.06"W; thence to 40°42'51.41"N, 074°07'16.10"W; thence to 40°42'27.93"N, 074°07'08.10"W; thence to 40°42'43.70"N, 074°06'56.08"W; thence to 40°43'08.81"N, 074°06'24.24"W; thence along the shoreline to point of origin (NAD 83).
- (j)(4) Anchorage Ground No. 46: 40°29'52.19" N, 074°15'01.76" W; thence to 40°29'48.88" N, 074°15'10.76" W. 40°30'34.63" N, 074°11'25.01" W; thence to 40°30'02.74" N, 074°09'03.10" W; thence to 40°31'44.04" N, 074°09'19.73" W.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the administrative nature of the rulemaking as it would not alter current navigational practices on the affected waterways.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit or anchor within these waterways may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 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 section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 Executive Order 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 rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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(42 U.S.C. 4321-4370f), and have determined 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 rule involves the disestablishment of thirteen obsolete anchorage grounds and one obsolete SAA, and reduces the size of two anchorage grounds and combines them into one smaller anchorage ground. It is 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 rule.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 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: March 22, 2016.

L. L. Fagan,

Rear Admiral, U.S. Coast Guard,

Commander, First Coast Guard District.

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