



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2016-0110]

RIN 1625-AA01

Anchorage Grounds; Delaware Bay and River, Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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**SUMMARY:** The Coast Guard is revising the anchorage regulations for the Delaware Bay and River. The Coast Guard conducted a review of the Delaware Bay and River anchorage grounds to support increased traffic and vessel size. The changes to this regulation will eliminate unusable anchorage grounds and provide additional usable grounds to support current and future port demands and enhance the overall navigation safety of this critical component of the maritime transportation system.

**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-2016-0110 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 Lieutenant Commander Tiffany Johnson, U.S. Coast Guard, Fifth Coast

Guard District, Waterways Management Branch, telephone (757) 398-6516, e-mail  
Tiffany.A.Johnson@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

### **II. Background Information and Regulatory History**

On July 15, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Anchorage Grounds; Delaware Bay and River, Philadelphia, PA (81 FR 46026). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to these anchorage regulations for Delaware Bay and River. During the comment period that ended August 15, 2016, we received two comments.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The purpose of this rule is to eliminate unusable anchorage grounds and maximize usable anchorage grounds within the anchorage boundaries while continuing to safely support current and future port demands.

### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received two comments on our NPRM published July 15, 2016. One comment was in favor of the proposed changes. The second comment

requested that the Coast Guard define the boundaries of the anchorages using coordinates instead of bearings and distances. As a result, the regulatory text of this rule has been changed to use coordinates to define the anchorages covered by this rule, with the exception of the western boundary of Anchorage 12 between Gloucester and Camden, 33 CFR 110.157(a)(13), for which it is impracticable to define using coordinates.

This rule makes changes to seven of the Delaware Bay and River anchorages in order to eliminate unusable anchorage grounds and maximize usable anchorage grounds within the anchorage boundaries while continuing to safely support current and future port demands.

The Delaware Bay and River anchorage grounds are largely used by commercial vessel traffic. General regulations covering the anchorage of vessels in the port are set out in 33 CFR 110.157. In 1992, the Delaware River Main Channel Deepening project was authorized for construction by Public Law 102-580, Section 101 (6) of the Water Resources Development Act (WRDA) 1992; modified by Public Law 106-53, Section 308 of WRDA 1999 and further modified by Public Law 106-541, Section 306 of WRDA 2000. This project includes deepening the existing Delaware River Federal Navigation Channel from 40 to 45 feet from Philadelphia, Pennsylvania, and Camden, New Jersey to the mouth of the Delaware Bay. The Army Corps of Engineers (USACE) along with the non-Federal sponsor, the Philadelphia Regional Port Authority (PRPA), commenced dredging for this project in 2010. This project, once completed, will allow for deeper draft vessels within the port and increase overall traffic, and anchorage usage. Due to this anticipated increase in marine traffic a review of the current Delaware Bay and River anchorage grounds was conducted by the Waterways Management Division Sector

Delaware Bay, Philadelphia, PA. Upon review, it was determined that multiple anchorage grounds in 33 CFR 110.157 were unusable for some larger vessels due to lack of depth needed to safely anchor. Other anchorage grounds were deemed unusable because they spanned underneath bridges where it would be impractical for vessels to anchor, and posed an increased and unnecessary safety risk of bridge allision.

## **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 rule is not a significant regulatory action because it will not interfere with existing maritime activity on the Delaware River. Rather, it will enhance navigational safety along the Delaware River by providing safer locations for vessels to anchor, improving navigation safety near bridges and reducing the potential for disruption to maritime traffic by anchored vessels potentially within the federal channel. Vessels may navigate in, around, and through the modified anchorages.

## 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.

The rule may affect owners and operators of vessels wishing to anchor in the Delaware Bay and River anchorages. Boundaries of some of the current anchorages have been modified, reduced, or increased depending on the water depth and relation of the anchorage to bridges along the Delaware Bay and River. The impact of the rule will be minimal because the changes increase usable anchorage grounds and enable vessels to safely anchor in the anchorage boundaries.

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 will 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 establishing, disestablishing, and modifying anchorage grounds. It is categorically excluded from further review under paragraph 34(f) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. 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.

2. Amend § 110.157 by revising paragraphs (a)(2), (4), (7), (9), and (12) through (14) to read as follows:

§ 110.157 Delaware Bay and River.

(a) \* \* \*

(2) *Anchorage 1 off Bombay Hook Point.* On the southwest side of the channel along Liston Range, in the waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°17'14.0" N	075°22'21.0" W
39°16'55.2" N	075°22'50.5" W
39°20'34.1" N	075°26'56.8" W
39°20'53.5" N	075°26'28.0" W

(DATUM: NAD 83)

\* \* \* \* \*

(4) *Anchorage 3 southeast of Reedy Point.* Southeast of the entrance to the Chesapeake and Delaware Canal at Reedy Point, in the waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°33'09.0" N	075°32'38.0" W
39°32'34.6" N	075°32'38.2" W
39°31'29.0" N	075°33'01.0" W

39°31'31.8" N	075°33'16.2" W
39°32'14.6" N	075°33'08.3" W
39°33'09.0" N	075°33'10.0" W

(DATUM: NAD 83)

\* \* \* \* \*

(7) *Anchorage 6 off Deepwater Point.* East of the entrance to Christina River, in the waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°43'00.0" N	075°30'20.0" W
39°42'51.5 " N	075°29'44.9" W
39°42'05.4" N	075°30'25.2" W
39°41'47.3" N	075°30'37.5" W
39°41'34.7" N	075°30'39.9" W
39°41'36.6" N	075°30'51.1" W

(DATUM: NAD 83)

\* \* \* \* \*

(9) *Anchorage 8 off Thompson Point.* On the south side of the channel along Tincum Range, between Thompson Point and the east side of Crab Point, in the waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°50'52.0" N	075°18'23.0" W
39°50'51.1" N	075°17'41.0" W
39°50'44.5" N	075°17'41.6" W

39°50'46.0" N	075°18'23.0" W
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(DATUM: NAD 83)

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(12) *Anchorage 11 at Gloucester.* (i) East of the channel south of the Walt Whitman Bridge at Gloucester, in the waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°54'10.0" N	075°07'45.0" W
39°54'09.4" N	075°07'43.0" W
39°54'03.0" N	075°07'41.0" W
39°53'30.5" N	075°07'57.7" W
39°53'09.6" N	075°08'17.0" W
39°53'36.6" N	075°08'00.6" W

(DATUM: NAD 83)

(ii) The area between Pier 124 S and 122 S, along the west side of the Delaware River, is restricted to facilitate vessel movements. The areas adjacent to working piers are restricted to facilitate the movement of vessels to and from these piers. Should the anchorage become so congested that vessels are compelled to anchor in these restricted areas, they must move immediately when another berth is available.

(13) *Anchorage 12 between Gloucester and Camden.* (i) East of the channel beginning north of the Walt Whitman Bridge at Gloucester and ending south of the Benjamin Franklin Bridge at Camden, bounded as follows: Beginning at a point at latitude 39°54'26.0" N, longitude 75°07'41" W, bounded on the west by a line

perpendicular to the channel, 210 yards from the east edge of the channel, 5,536 yards north to a point at latitude 39°57'05.0" N, longitude 75°08'04.2" W, and then bounded by a line connecting the following points, connecting to the point of beginning:

<i>Latitude</i>	<i>Longitude</i>
39°57'04.3" N	075°07'57.3" W
39°56'51.7" N	075°08'01.3" W
39°56'35.5" N	075°08'03.1" W
39°56'02.8" N	075°08'02.0" W
39°55'34.7" N	075°07'54.5" W
39°54'45.7" N	075°07'32.5" W
39°54'33.8" N	075°07'32.9" W
39°54'25.2" N	075°07'36.1" W

(DATUM: NAD 83)

(ii) The area between No. 2 Broadway pier and No. 1 Broadway pier is restricted to facilitate vessel movements. The areas adjacent to working piers are restricted to facilitate the movement of vessels to and from these piers. Should the anchorage become so congested that vessels are compelled to anchor in these restricted areas, they must move immediately when another berth is available.

(14) *Anchorage 13 at Camden*. East of the channel, north of the Benjamin Franklin Bridge to Cooper Point, Camden, NJ, in the waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°57'17.0" N	075°07'58.0" W
39°57'22.3" N	075°07'55.9" W
39°57'32.0" N	075°07'49.4" W
39°57'39.2" N	075°07'39.7" W
39°57'34.9" N	075°07'34.7" W
39°57'21.2" N	075°07'49.8" W
39°57'15.1" N	075°07'52.7" W

(DATUM: NAD 83)

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Dated: November 7, 2016.

Meredith L. Austin,  
Admiral, U.S. Coast Guard,  
Commander, Fifth Coast Guard District.

[FR Doc. 2016-28405 Filed: 11/23/2016 8:45 am; Publication Date: 11/25/2016]