



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2014-0142]

RIN 1625-AA01

Anchorage Regulations: Special Anchorage Areas; Marina del Rey Harbor, Marina del Rey, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the shape and reducing the size of the special anchorage area in Marina del Rey Harbor, Marina del Rey, California. Additionally, the Coast Guard is clarifying the language in the note section of the existing regulation. This action is necessary as it will create sufficient navigable water around the anchorage allowing vessels to traffic the Marina del Rey channel without undue maritime safety concerns.

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

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0142. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on the Open Docket Folder on the line associated with this rulemaking. You may also visit 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, with the exception of federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Amber Napralla, Waterways Management Division, U. S. Coast Guard District 11, telephone (510) 437-2978, e-mail Amber.L.Napralla@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NOAA	National Oceanic and Atmospheric Administration
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

In 1967, the Coast Guard placed the regulation for a special anchorage area in the main channel of Marina del Rey in 33 CFR after anchorage regulations were transferred from the Army Corps of Engineers to the Coast Guard (32 FR 17726, 17737, December 12, 1967.) The specific regulations and boundaries for this special anchorage area are defined by coordinates found in 33 CFR 110.111.

On May 28, 2014, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled “Anchorage Regulations; Special Anchorage Area, Marina del Rey, California” in the Federal Register (79 FR 30509, May 28, 2014) to disestablish the anchorage. The stated purpose of the NPRM was to align the regulations with the main channel and docking facilities in Marina del Rey harbor. Existing docks located in the northern section of the harbor were built into the pre-existing anchorage area at some point with no record of Coast Guard comment on the construction or its impact on anchorage.

On November 4, 2014, the Coast Guard published notice for a public meeting (79 FR 65361, November 4, 2014) to hear concerns regarding the proposed rulemaking. The meeting was held in Marina del Rey, CA on November 20, 2014. The Coast Guard heard from six speakers. To ensure maximum public input was considered, comments to the public docket were kept open and considered through January 5, 2015. In addition to the six speakers at the public meeting, 44 written submissions were made to the docket. The speakers input and written submissions were reviewed and taken into consideration.

On February 29, 2016, based on the comments received, the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) (81 FR 10156, February 29, 2016) that proposed to maintain the special anchorage area, but amend the boundaries and reduce the size of the anchorage.

On April 12, 2016, a public meeting was held in Marina del Rey, CA and comments were open and considered on the docket until April 30, 2016. There was no public representation at the meeting and no comments were submitted to the docket regarding the SNPRM.

On July 14, 2016, the docket was reopened for comment (81 FR 45428, July 14, 2016) for 30 days to provide additional opportunity for public feedback on the SNPRM. During this period four written comments were submitted via the Federal eRulemaking Portal and three comments were sent directly to the Coast Guard via email.

III. Legal Authority and Need for Rule

The legal basis for the final rule is: 33 U.S.C. 471, 1221 through 1236, and 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1. These authorities collectively authorize the Coast Guard to define anchorage areas. A special anchorage area is a designated water area within which vessels less than 65 feet (20 meters) in length are not required

to sound signals required by Rule 35 of the Inland Navigation Rules (33 CFR 83.35) or exhibit the white anchor lights or shapes required by Rule 30 of the Inland Navigation Rules (33 CFR 83.30.) By regulation, special anchorage areas should be well removed from the fairways and be located where general navigation will not endanger or be endangered by unlighted vessels (33 CFR 109.10.) The purpose of this rule is to improve navigation safety by clearly delineating between the designated anchorage and the navigation channel, and by accommodating vessel traffic on all sides of the anchorage.

IV. Discussion of Comments, Changes, and the Rule

The Coast Guard received a total of 51 written comments and recorded six speakers at a public meeting since the inception of this rulemaking from November, 2014. The public docket for this rulemaking includes all written submissions made through the Federal eRulemaking Portal, the recorded transcripts of the public meetings and all other documents pertaining to this topic. This correspondence can be found where indicated under ADDRESSES.

The original NPRM (USCG-2014-0142) was placed on May 28, 2014 and the Coast Guard received a total of 32 written submissions to the docket following this publication. Of the 32 submissions, 12 comments requested a public hearing and additional time for public comment. As a result, the Coast Guard held a public meeting in Marina del Rey on November 20, 2014 and extended the online comment period to January 5, 2015. The Coast Guard heard from six speakers at the public meeting on November 20, 2014 and received 12 additional written comments to the docket, resulting in 44 total written comments to the docket. Of the 44 submissions, 32 comments requested to keep the anchorage as is or to establish an alternate anchorage at another location in the harbor. The Coast Guard understood the concerns of the comment submitters regarding the need for a safe refuge for recreational vessels during storms or other dangerous conditions and

thus proposed a smaller anchorage at the same site as an option for mariners in the SNPRM. The Coast Guard received seven comments in support of removing the anchorage. Some comments indicated that vessels anchoring in the existing anchorage site in the main channel create an unsafe situation. Other comments indicated that mariners rarely use the anchorage and that there is little knowledge of its existence. The special anchorage area in question is clearly marked on the chart with reference to the applicable regulation. A copy of the National Oceanic and Atmospheric Administration (NOAA) Office of Coast Survey chart number 18744 has been posted to the docket for reference. In addition, Coast Pilot 7 contains information regarding the special anchorage area in Marina Del Rey. Some comments expressed concern regarding the administration of the special anchorage area by the Marina del Rey Harbormaster, indicating that the Harbor Master does not allow vessels to anchor in the area for other than emergency reasons. Local regulations administered by the Harbor Master are outside the scope of Coast Guard authority, and are not addressed in this rulemaking. At the public meeting, the Coast Guard received two comments and questions concerning proposed projects located in other areas within the harbor. The Coast Guard responded to these comments and questions by indicating that these comments addressed areas outside the anchorage area being discussed. The Coast Guard indicated to the attendees that projects in other areas within the harbor would not impact the existing anchorage and were beyond the scope of the proposed rulemaking.

The Coast Guard determined that the existing configuration of the special anchorage area in Marina del Rey poses a safety concern because it occupies the entire channel width at the north end of the harbor. The SNPRM published on February 29, 2016 proposed a smaller special anchorage area that allows vessel traffic to pass safely on all sides of the designated anchorage and also amends the note to update authority to the Marina del Rey Harbor Master for prescribing

local regulation for mooring and boating activities in the area. A public meeting regarding the revised proposal in the SNPRM was held on April 12, 2016. No members of the public attended this meeting. The Federal Register announcement for the meeting was delayed due to administrative errors and was not available for review until after the meeting. However, the meeting was advertised locally and through direct outreach. The online comments for the docket were open until April 30, 2016; no comments were made to the docket during this time period. In light of the delayed announcement by the Federal Register, the Coast Guard reopened the docket for comments on July 15, 2016 to allow for an extended period of public comment. Seven comments were received during this time; four via the online docket and three via email bringing the total number to 51 written submissions to the docket. Two comments were identical and appear to have been incorrectly filed in the docket, as they addressed concerns with a proposed anchorage on the east coast and were unrelated to the anchorage in Marina del Rey. One comment supported the proposal, citing safety concerns due to the increasing number of waterway users. One comment to the docket and three email comments opposed disestablishment of the Marina del Rey anchorage due to there not being an alternate anchorage site for safe harbor in the area and the comments also expressed concern regarding future development. These comments appear to reference the original NPRM, proposing removal of the anchorage, not the most recent SNPRM, proposing retention of the anchorage area with an amended size and shape of the anchorage. The Coast Guard is retaining the anchorage but is changing the shape and size of the anchorage area to allow for safer transit around the anchorage for recreational traffic. The reconfiguration of the anchorage area does not accommodate further development as it more clearly delineates the navigation channel on either side of the anchorage. Nothing in this regulation prevents vessels from anchoring due to emergency situations.

This final rule will decrease the size of the current anchorage in Marina del Rey Harbor. The anchorage is currently a trapezoid-shaped anchorage of approximately 0.48 square nautical miles. The Coast Guard is changing the shape of the anchorage from a trapezoid to a rectangular shape and reducing the size from 0.48 to 0.11 square nautical miles. The revised anchorage will be moved to the middle of the channel across from Burton Chace Park with its northern boundary line extending from approximately the midpoint of Basin G south to the midpoint of Basin H. The anchorage dimensions will be 1154 feet in length by 365 feet in width. The distance from the closest shore-side dock to the anchorage boundary will be approximately 243 feet. The anchorage boundaries are described, using precise coordinates, in the final regulatory text at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Regulatory Planning and Review

This 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.

The Coast Guard expects the economic impact of this proposed rule will not be significant to the maritime and local community. The existing anchorage is currently used only in emergency

circumstances and this final rule will not significantly reduce the number of vessels using the anchorage.

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 rule will not have a significant economic impact on a substantial number of small entities. This final rule may affect the following entities, some of which might be small entities: owners or operators of recreational vessels that have a need to anchor in Marina del Rey special anchorage area.

This final rule will not have a significant impact on a substantial number of small entities. Although this rule will decrease the size of the special anchorage area, the dimensions provide sufficient room for vessels to anchor without presenting a hazard to vessels transiting in the channel.

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.

This rule has no 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 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 (NEPA) of 1969.42 U.S.C. 4321-4370f, and have concluded that this action is one of the category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the amendment of a currently-existing anchorage area. Normally such actions are categorically

excluded from further review under paragraph 34(f) of Figure 2-1 of the Commandant Instruction M16475.1D. A final environmental analysis checklist 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.

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.

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. 0170.01.

2. Revise § 110.111 to read as follows:

§ 110.111 Marina del Rey Harbor, Calif.

An area in the main channel encompassed within the following described boundaries: Beginning at the northeasterly corner in position latitude 33°58'41.6" N., longitude 118°26'50.8" W.; thence southerly to latitude 33°58'30.2" N., longitude 118°26'50.8" W.; thence westerly to latitude 33°58'30.2" N., longitude 118°26'55.1" W.; thence northerly to latitude 33°58'41.6" N., longitude 118°26'55.1" W.; thence easterly to the point of origin. All coordinates referenced North American Datum 1983.

Note to 110.111: The Marina del Rey Harbor Master, Los Angeles County, prescribes local regulations for mooring and boating activities in this area.

Dated: December 2, 2016

T. A. Sokalzuk

REAR ADMIRAL, U.S. Coast Guard,

Commander, Eleventh Coast Guard District.

[FR Doc. 2016-31996 Filed: 1/9/2017 8:45 am; Publication Date: 1/10/2017]