



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2017-0181]

RIN 1625-AA01

Anchorage Grounds; Baltimore Harbor, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its Baltimore Harbor anchorage grounds regulation. The changes will reduce the size of three general anchorages, establish one new general anchorage, rename two existing general anchorages, and change the duration a vessel may remain within an anchorage for two existing general anchorages. This rule will ensure that Coast Guard regulations are consistent with the U.S. Army Corps of Engineers Baltimore District Port of Baltimore Anchorages and Channels civil works project that widened the channel, and provide a higher degree of safety to persons, property and the environment by accurately depicting the anchorage locations. The changes to the regulated uses of the anchorages will support current and future port activity related to the safety of post-Panamax commercial cargo vessels, and will remove vessel security provisions that currently exist in these Baltimore Harbor regulations.

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-2017-0181 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. Ronald L. Houck, U.S. Coast Guard, Sector Maryland-National Capital Region, Waterways Management Division, Coast Guard; telephone (410) 576-2674, email Ronald.L.Houck@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
U.S.C.	United States Code

II. Background Information and Regulatory History

Anchorage regulation duties and powers were transferred to the Coast Guard in 1967 (32 FR 17726, Dec. 12, 1967). On December 12, 1968, the Fifth Coast Guard District published a final rule in the Federal Register (33 FR 18438) establishing an anchorage area in Baltimore Harbor, Maryland. The anchorage grounds at Baltimore, Maryland are described in 33 CFR 110.158. These anchorage grounds are involved in a federal navigation project under the jurisdiction of the U.S. Army Corps of Engineers Baltimore District. Section 101a(22) of the Water Resources Development Act of 1999 (Pub. L. 106-53, 113 Stat 269 (1999)) authorized widening of the Dundalk and Seagirt Marine Terminal channels. Widening of the Seagirt Marine Terminal channel occurred in 2015. This dredging widened the limits of existing navigation channels which are used

to access key Maryland Port Administration marine terminals located immediately adjacent to the Baltimore Harbor, Maryland anchorage grounds, and put the existing anchorage grounds in the way of the newly expanded navigation channels. To address these changes, Sector Maryland-National Capital Region, Baltimore, Maryland, worked in coordination with the Port of Baltimore Harbor Safety and Coordination Committee to develop proposed revisions to the affected anchorage boundaries and associated regulations. On August 14, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Anchorage Grounds; Baltimore Harbor, Baltimore, MD" (83 FR 40164). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this anchorage grounds. During the comment period that ended November 13, 2018, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 471, 2071; 46 U.S.C 70034; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define anchorage grounds. The purpose of this rule is to reduce navigational safety risk and support port efficiency in Baltimore Harbor. This regulation will designate a new general anchorage ground developed from an existing anchorage ground that is located outside of the established navigation channel in order to align with the existing U.S. Army Corps of Engineers Baltimore District Port of Baltimore Anchorages and Channels civil works project. The Baltimore Harbor anchorage grounds are typically used by deep draft commercial cargo vessels. In order to maximize the availability and use of these important anchorages, this regulation will also change the duration for which vessels may remain in these

anchorage. This regulation will reduce the duration a vessel may remain within Anchorage No. 3 Lower (renumbered as Anchorage No. 3A) and Anchorage No. 4, from 72 hours to 24 hours. Lastly, due to similar provisions within the Maritime Transportation Security Act of 2002 (MTSA) (*Pub. L. 107-295*) and federal regulations (33 CFR part 104, and 46 CFR chapter 1, subchapters N and O), the vessel security requirements in § 110.158(d) are now redundant and will be removed as part of this regulation.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 14, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule amends the Baltimore Harbor, Maryland anchorage grounds as described in 33 CFR 110.158. The general anchorages currently listed in the regulation that are affected by this rule are Anchorage No. 2, Anchorage No. 3 Upper, Anchorage No. 3 Lower, Anchorage No. 4, Anchorage No. 5 and Anchorage No. 6.

This rule reduces the sizes of Anchorage No. 2, Anchorage No. 3 Lower, and Anchorage No. 4. These reductions will remove the portions of the anchorage grounds that are in the navigable channel. The area of Anchorage No. 2 is reduced by approximately 16,330 square yards along its northern limit and approximately 326,770 square yards along its eastern limit. The area of Anchorage No. 3 Lower is reduced at its eastern limit by 12,560 square yards. The area of Anchorage No. 4 is reduced at its western limit by 6,000 square yards.

This rule renames Anchorage No. 3 Lower to Anchorage No. 3A, and renames Anchorage No. 3 Upper to Anchorage No. 3B. This rule revises Anchorage No. 2 and creates an area called Anchorage No. 3C out of existing anchorage ground from Anchorage No. 2. An area within Anchorage No. 2 that is approximately 500 yards in length and 165 yards in width, and adjacent to Anchorage No. 3 Upper, becomes Anchorage No. 3C. This reconfiguration does not provide new space available for anchorage, will not restrict traffic, and is located outside of the established navigation channel. A graphic depicting these changes is included in the docket.

This rule will reduce the duration a vessel may remain within Anchorage No. 3 Lower (renumbered as Anchorage No. 3A) and Anchorage No. 4, from 72 hours to 24 hours. These changes are based on recommendations documented by the Port of Baltimore Harbor Safety and Coordination Committee on September 8, 2010, and the Association of Maryland Pilots. The Port of Baltimore Harbor Safety and Coordination Committee's recommendation is available in the docket. The Coast Guard agrees that the Committee's recommendation addresses the problem of ensuring maximum availability and use of these anchorages. In addition, this rule establishes that a vessel may remain within Anchorage No. 3C for no more than 72 hours without permission from the Captain of the Port, to remain consistent with the regulations for Anchorage No. 2.

This rulemaking renumbers several paragraphs listed in 33 CFR 110.158, from (a)(3) Anchorage No. 3, Upper, general anchorage, through (a)(8) Anchorage No. 7, Dead ship anchorage. All anchorage ground descriptions will be updated to state they are in the waters of the Patapsco River, except for Anchorage No. 7, Dead ship anchorage, which will be updated to state it is in the waters of Curtis Bay. Designation of the new

Anchorage No. 3C will create a new paragraph, (a)(9) for Anchorage No. 7, Dead ship anchorage. This rulemaking modifies paragraph (c)(3) of the general regulations to remove the reference to a vessel becoming “a menace” because we do not define that term and we don't believe it is needed given other factors already included in that paragraph. We also change the defined term “dangerous cargo” to “certain dangerous cargo” without changing the definition, continuing to incorporate the definition of certain dangerous cargo from 33 CFR 160.202, and aligning terminology used in this rule with that used throughout the rest of 33 CFR 110.158. This rulemaking removes paragraphs (c)(4) regarding revocable permits for habitual use of an anchorage, and paragraph (d) in its entirety, as described in section III above.

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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the following: (i) it will not

interfere with existing maritime activity in Baltimore Harbor, (ii) the changes will reduce navigational safety risk in Baltimore Harbor by: (1) aligning existing general anchorage boundaries with recent dredging projects that widened the limits of adjacent navigational channels, (2) reducing the duration a vessel may remain within an anchorage to increase availability and usage, and (3) renaming and reconfiguring general anchorages that support a proper naming and numbering convention within the existing anchorage regulation, and (iii) the reconfiguration of the additional general anchorage does not provide additional anchorage area and will not restrict traffic, as it is developed from an existing anchorage and is located outside of the established navigation channel. As discussed in section IV above, this rule will replace the “dangerous cargo” definition with one for “certain dangerous cargo” and remove vessel security provisions that are redundant to other federal regulations.

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.

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 Directive 023-01 and Commandant Instruction M16475.1D, 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 modification of existing anchorages within the Baltimore Harbor, Maryland anchorage grounds. It is categorically excluded from further review under paragraph L59(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01,

Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

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, 2071; 46 U.S.C. 70034; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 110.158 to read as follows:

§ 110.158 Baltimore Harbor, MD.

(a) *Anchorage Grounds*—(1) *No. 1, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
39°15'13.51" N	76°34'07.76" W
39°15'11.01" N	76°34'11.69" W
39°14'52.98" N	76°33'52.67" W

39°14'47.90" N	76°33'40.73" W
----------------	----------------

(ii) No vessel shall remain in this anchorage for more than 12 hours without permission from the Captain of the Port.

(2) *Anchorage No. 2, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
39°14'50.06" N	76°33'29.86" W
39°14'57.53" N	76°33'37.74" W
39°15'08.56" N	76°33'37.66" W
39°15'15.77" N	76°33'28.81" W
39°15'18.87" N	76°33'12.82" W
39°15'17.71" N	76°33'09.09" W
39°14'50.35" N	76°32'40.43" W
39°14'45.28" N	76°32'48.68" W
39°14'46.27" N	76°32'49.69" W
39°14'43.76" N	76°32'53.63" W
39°14'57.51" N	76°33'08.14" W
39°14'55.60" N	76°33'11.14" W
39°14'59.42" N	76°33'15.17" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(3) *Anchorage No. 3A, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
39°14'15.66" N	76°32'53.59" W
39°14'32.48" N	76°33'11.31" W
39°14'46.27" N	76°32'49.69" W
39°14'32.50" N	76°32'35.18" W
39°14'22.37" N	76°32'43.07" W

(ii) No vessel shall remain in this anchorage for more than 24 hours without permission from the Captain of the Port.

(4) *Anchorage No. 3B, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
39°14'32.48" N	76°33'11.31" W
39°14'46.23" N	76°33'25.83" W
39°14'57.51" N	76°33'08.14" W
39°14'43.76" N	76°32'53.63" W

(ii) No vessel shall remain in this anchorage for more than 24 hours without permission from the Captain of the Port.

(5) *Anchorage No. 3C, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
39°14'46.23" N	76°33'25.83" W
39°14'50.06" N	76°33'29.86" W
39°14'59.42" N	76°33'15.17" W
39°14'55.60" N	76°33'11.14" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(6) *Anchorage No. 4, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
39°13'52.92" N	76°32'29.60" W
39°14'04.38" N	76°32'41.69" W
39°14'09.35" N	76°32'39.89" W
39°14'17.96" N	76°32'26.44" W
39°14'05.32" N	76°32'13.09" W
39°14'00.05" N	76°32'17.77" W

(ii) No vessel shall remain in this anchorage for more than 24 hours without permission from the Captain of the Port.

(7) *Anchorage No. 5, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
----------	-----------

39°14'07.89" N	76°32'58.23" W
39°13'34.82" N	76°32'23.66" W
39°13'22.25" N	76°32'28.90" W
39°13'21.20" N	76°33'11.94" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(8) *Anchorage No. 6, general anchorage.* (i) All waters of the Patapsco River, bounded by a line connecting the following points:

Latitude	Longitude
39°13'42.98" N	76°32'19.11" W
39°13'20.65" N	76°31'55.58" W
39°13'34.00" N	76°31'33.50" W
39°14'01.95" N	76°32'02.65" W
39°13'51.01" N	76°32'18.71" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(9) *Anchorage No. 7, Dead ship anchorage.* (i) All waters of Curtis Bay, bounded by a line connecting the following points:

Latitude	Longitude
39°13'00.40" N	76°34'10.40" W
39°13'13.40" N	76°34'10.81" W

39°13'13.96" N	76°34'05.02" W
39°13'14.83" N	76°33'29.80" W
39°13'00.40" N	76°33'29.90" W

(ii) The primary use of this anchorage is to lay up dead ships. Such use has priority over other uses. Permission from the Captain of the Port must be obtained prior to the use of this anchorage for more than 72 hours.

(b) *Definitions.* As used in this section—

Certain dangerous cargo means *certain dangerous cargo* as defined in § 160.202 of this chapter.

COTP means Captain of the Port Sector Maryland—National Capital Region.

(c) *General regulations.* (1) Except as otherwise provided, this section applies to vessels over 20 meters long and all vessels carrying or handling certain dangerous cargo while anchored in an anchorage ground described in this section.

(2) Except in cases where unforeseen circumstances create conditions of imminent peril, or with the permission of the Captain of the Port, no vessel shall be anchored in Baltimore Harbor or the Patapsco River outside of the anchorage areas established in this section for more than 24 hours. No vessel shall anchor within a tunnel, cable or pipeline area shown on a government chart. No vessel shall be moored, anchored, or tied up to any pier, wharf, or other vessel in such manner as to extend into established channel limits. No vessel shall be positioned so as to obstruct or endanger the passage of any other vessel.

(3) Except in an emergency, a vessel that is likely to sink or otherwise become an obstruction to navigation or the anchoring of other vessels may not occupy an anchorage, unless the vessel obtains permission from the Captain of the Port.

(4) Upon notification by the Captain of the Port to shift its position, a vessel at anchor must get underway and shall move to its new designated position within two hours after notification.

(5) The Captain of the Port may prescribe specific conditions for vessels anchoring within the anchorages described in this section, including, but not limited to, the number and location of anchors, scope of chain, readiness of engineering plant and equipment, usage of tugs, and requirements for maintaining communication guards on selected radio frequencies.

(6) No vessel at anchor or at a mooring within an anchorage may transfer oil to or from another vessel unless the vessel has given the Captain of the Port the four hours advance notice required by § 156.118 of this chapter.

(7) No vessel shall anchor in a “dead ship” status (propulsion or control unavailable for normal operations) without prior approval of the Captain of the Port.

Dated: April 17, 2019.

Keith M. Smith,
Rear Admiral, U.S. Coast Guard,
Commander, Fifth Coast Guard District.
[FR Doc. 2019-08116 Filed: 4/22/2019 8:45 am; Publication Date: 4/23/2019]