



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2016-0132]

RIN 1625-AA01

Anchorage Grounds, Hudson River; Yonkers, NY to Kingston, NY

AGENCY: Coast Guard, DHS.

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing the advance notice of proposed rulemaking titled “Anchorage Grounds, Hudson River; Yonkers, NY to Kingston, NY” published in the **Federal Register** on June 9, 2016. After a review of comments, the Coast Guard suspended rulemaking action in 2017 to allow for further study and analysis of the need, impact, and appropriateness of the requested anchorage grounds. Among other reasons, while examining whether there was a need for a proposed rule, section 8437 of the Elijah E. Cummings Coast Guard Authorization Act of 2020 suspended the establishment of new anchorage grounds on the Hudson River between Yonkers, NY and Kingston, NY. Consequently, the Coast Guard currently lacks authority to establish new anchorages in this region. Accordingly, we have determined withdrawal of this advance notice of proposed rulemaking titled “Anchorage Grounds, Hudson River; Yonkers, NY to Kingston, NY” published in the Federal Register on June 9, 2016, is appropriate at this time. The Coast Guard will continue to enforce current regulations and may undertake future rulemaking actions as required and authorized to protect the waterway, the users of the waterway, and the marine transportation system.

DATES: The advance notice of proposed rulemaking published on June 9, 2016 (81 FR

37168) and the comment period extended on September 7, 2016, (81 FR 61639) are withdrawn as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The docket for the withdrawn advance notice of proposed rulemaking is available at the Federal eRulemaking Portal at <https://www.regulations.gov>. Please search for docket number USCG–2016–0132.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or email Mr. Craig Lapiejko, First Coast Guard District (dpw), U.S. Coast Guard: telephone 617-603-8592, email craig.d.lapiejko@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

ANPRM	Advance Notice of Proposed Rulemaking
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
MSIB	Marine Safety Information Bulletin
NY	New York
PANYNJ	Port Authority of New York and New Jersey
PAWSA	Ports and Waterways Safety Assessment
§	Section
U.S.C.	United States Code

II. Background

The Hudson River historically has been and will remain a vital corridor for maritime commerce. The river also serves as a source of drinking water, recreation, tourism, and economic prosperity. The Coast Guard’s role includes promoting navigational safety and protecting the environment. These are complementary objectives, as safer navigation inherently improves environmental protection. It is for these stewardship reasons that we published an Advance Notice of Proposed Rulemaking (ANPRM) in June 2016 to better understand the need for and potential locations of anchorages that could help improve navigation safety and environmental protection. In examining whether there is a need for a proposed rule, we selected the ANPRM from

many possible tools because it provided public participation at the earliest possible opportunity.

The Coast Guard published two documents related to the 2016 ANPRM. On June 9, 2016, the Coast Guard published the ANPRM itself, titled “Anchorage Grounds, Hudson River; Yonkers, NY to Kingston, NY” in the **Federal Register** and then extended the comment period on September 7, 2016 (81 FR 61639). Again, the intent of the ANPRM was to initiate the early stage of a methodical and public rulemaking process to learn all possible navigational, environmental, terrestrial, and other effects of adding anchorages on the Hudson River. Establishing new anchorage grounds in the Hudson River from Yonkers, NY, to Kingston, NY, were being contemplated after we received a request suggesting that anchorage grounds may improve navigational safety along an extended portion of the Hudson River.

When the ANPRM comment period closed on December 6, 2016, the Coast Guard had received 10,212 public submissions with comments on the subject from many diverse stakeholders. A memorandum summarizing the comments is included in this docket.

After a review of the comments, the Coast Guard suspended future rulemaking decisions and directed a formal risk identification and evaluation of the Hudson River, known as a Ports and Waterways Safety Assessment (PAWSA). The results of this assessment process identifying major waterway safety hazards, estimated risk levels, existing risk mitigations, additional risk intervention strategies, and participant comments and observations are outlined in the report. The 2017 Hudson River PAWSA report is included in this docket.

As recommended by the 2017 Hudson River PAWSA, and responding to other requests, to provide clarity on the term “Port of New York” we studied its usage within federal anchorage regulations, as well as its current and historic usage by the agencies

charged with administering those regulations. At the time Coast Guard Sector New York released Marine Safety Information Bulletin (MSIB) – (2015-014), which can be found in this docket, the “Port of New York” was viewed as synonymous with “Sector New York Captain of the Port Zone,” so the anchoring prohibition within the “Port of New York” was seen as applicable on the Hudson River to Albany, NY. We have now determined, based on historical research, that the term “Port of New York” encompasses the navigable waters within approximately a 25-mile radius from the Statue of the Liberty. Which is to say, the “Port of New York” only extends up the Hudson River to just south of the Governor Mario M. Cuomo Bridge and not the entire Hudson River to Albany, NY. The specific boundary points for the “Port of New York” are the same as the “Port of New York District” created by a 1921 inter-state compact between New York and New Jersey and now referred to as the “Port of New York and New Jersey”. Consequently, mariners operating outside the Port of New York are not subject to the anchoring prohibition cited in 33 CFR 110.155(1)(2), and must comply with the Inland Navigation Rules, which are codified in 33 CFR part 83, when anchoring in the Hudson River. The complete “Port of New York” report detailing the Coast Guards historical research supporting this determination is included in this docket.

A provision related to the Hudson River was included in the Elijah E. Cummings Coast Guard Authorization Act of 2020, which is included in the National Defense Authorization Act for Fiscal Year 2021.¹ In section 8437, Congress suspended the establishment of new anchorage grounds on the Hudson River between Yonkers, NY and Kingston, NY. Consequently, the Coast Guard has no legal authority to establish any new anchorages in this region without a change to current legislation.

Additionally, section 8437(d), directed the Coast Guard, in consultation with the Hudson River Safety, Navigation, and Operations Committee (HRSNOC), to conduct a

¹ Public Law 116–283; JAN. 1, 2021; 134 STAT. 3388, 4633. Sec. 8437 may be found at 134 Stat. 4736.

study of the Hudson River north of Tarrytown, New York. This study was to examine - (1) the nature of vessel traffic including vessel types, sizes, cargoes, and frequency of transits; (2) the risks and benefits of historic practices for commercial vessels anchoring; and (3) the risks and benefits of establishing anchorage grounds on the Hudson River. The Coast Guard's report submitted to Congress on February 28, 2023, containing the findings, conclusions, and recommendations titled "Establishing Anchorage Grounds on the Hudson River" is available in this docket.

III. Withdrawal

The Coast Guard is withdrawing the ANPRM published on June 9, 2016. As discussed in the background section above, after reviewing the 10,212 comments provided during the 2016 ANPRM, after considering the results of the 2017 Hudson River PAWSA, after our research of the regulatory history of the Port of New York, after Congress suspended our legal authority to establish any new anchorage grounds in this region, and after conducting a study and providing a report to Congress, we no longer are considering creating 10 new anchorage grounds on the Hudson River from Yonkers, NY, to Kingston, NY.

The Coast Guard's role on the river will continue to include promoting navigational safety and protecting the environment. These are complementary objectives, as safer navigation inherently improves environmental protection. We will also continue to monitor the river and identify any regulatory gaps that allow unacceptable risk to the environment, the marine transportation system, or the users of the waterway. If regulatory gaps are identified, the Coast Guard is committed to engaging in an open, public process that allows all stakeholders to educate the agency and assist in developing the best regulatory solution possible.

As of publication of this notice, the ANPRM entitled “Anchorage Grounds, Hudson River; Yonkers, NY to Kingston, NY” published in the Federal Register on June 9, 2016, will be withdrawn.

This document is issued under authority of 5 U.S.C. 552(a).

Dated: July 13, 2023.

J. W. Mauger,

Rear Admiral, U.S. Coast Guard,

Commander, First Coast Guard District.

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