

**Drafting Information**

N.A. Sutton of the Regulations and Procedures Division drafted this document.

**List of Subjects in 27 CFR Part 9**

Wine.

**The Final Rule**

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter I, part 9 as follows:

**PART 9—AMERICAN VITICULTURAL AREAS**

■ 1. The authority citation for part 9 continues to read as follows:

*Authority:* 27 U.S.C. 205.

**Subpart C—Approved American Viticultural Areas**

■ 2. Amend subpart C by adding § 9.180 to read as follows:

**§ 9.180 Dundee Hills.**

(a) *Name.* The name of the viticultural area described in this section is “Dundee Hills”.

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Dundee Hills viticultural area are three United States Geological Survey (USGS) 1:24,000 scale maps. They are titled:

(1) Dundee Quadrangle, Oregon, 1956, revised 1993;

(2) Newberg Quadrangle, Oregon, 1961, photorevised 1985; and

(3) Dayton Quadrangle, Oregon, 1957, revised 1992.

(c) *Boundary.* The Dundee Hills viticultural area is located in Yamhill County, Oregon, near the town of Newberg, and is entirely within the Willamette Valley viticultural area. The boundary of the Dundee Hills viticultural area is as described below:

(1) The beginning point is on the Dundee map at the intersection of the 200-foot contour line with Kuehne Road at the common boundary line of sections 47 and 48, T3S, R3W;

(2) From the beginning point, proceed east then south along the meandering 200-foot contour line, crossing over to and back off the Newberg map, and then cutting diagonally southwest through the town of Dundee to the 200-foot contour line's intersection with Hess Creek, section 34, T3S, R3W (Dundee Quadrangle); then

(3) Proceed south, then west, and then northeast, along the meandering 200-foot contour line, twice crossing over to and back off the Dayton map, to the contour line's intersection with Abbey Road after the line passes a quarry and

crosses the two forks of Millican Creek in section 52, T3S, R3W (Dundee Quadrangle); then

(4) Proceed generally north on Abbey Road to Kuehne Road and then follow Kuehne Road northeasterly to the beginning point.

Signed: October 21, 2004.

**Arthur J. Libertucci,**

*Administrator.*

Approved: November 9, 2004.

**Timothy E. Skud,**

*Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 110**

[CGD01-03-107]

1625-AA01

**Anchorage Regulations: Yonkers, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the anchorage regulations for the Hudson River, New York by establishing two Special Anchorage areas adjacent to the City of Yonkers. This action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages for vessels not more than 20 meters in length. This action is intended to increase the safety of life and property on the Hudson River, improve the safety of anchored vessels in both anchorages, and provide for the overall safe and efficient flow of recreational vessel traffic and commerce.

**DATES:** This rule is effective December 30, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-03-107), and are available for inspection or copying at Room 628, First Coast Guard District Boston, 408 Atlantic Avenue, Boston, MA 02110, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John J. Mauro, Commander (oan), First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02110; telephone (617) 223-8355; e-mail [jmauro@d1.uscg.mil](mailto:jmauro@d1.uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On June 30, 2004, we published a notice of proposed rulemaking (NPRM) entitled “Anchorage Regulations: Yonkers, New York” in the **Federal Register** (69 FR 39380). We received two comments on the proposed rule. No public hearing was requested and none was held.

**Background and Purpose**

A request was made by the City of Yonkers, New York to establish two special anchorage areas as part of a waterfront revitalization and redevelopment effort. The City of Yonkers is proactively encouraging waterfront use by the general public. This rule is in response to that request to help ensure the safe navigation of increased vessel traffic expected to arrive along the city waterfront due to this revitalization effort.

The Coast Guard is designating the areas as special anchorage areas in accordance with 33 U.S.C. 471. In accordance with that statute, vessels will not be required to sound signals or exhibit anchor lights or shapes which are otherwise required by rule 30 and 35 of the Inland Navigation Rules, codified at 33 U.S.C. 2030 and 2035. The two special anchorage areas will be located on the East side of the Hudson River in the vicinity of Main Street and the JFK Marina, well removed from the channel and located where general navigation will not endanger or be endangered by unlighted vessels. Providing anchorage well removed from the channel and general navigation will greatly increase navigational safety.

While developing this rule, in accordance with 33 CFR 109.05(b), the Coast Guard consulted with the U.S. Army Corps of Engineers, New York District, located at 26 Federal Plaza, New York, NY 10278. The U.S. Army Corps of Engineers has determined that the proposed Special Anchorage Areas would not have an adverse affect on any federally maintained navigation channels in the area, structures the U.S. Army Corps of Engineers has permitted, or any pending permit applications submitted to the U.S. Army Corps of Engineers in this area.

**Discussion of Comments and Changes**

We received a letter from the City of Yonkers requesting that the Main Street Special Anchorage be modified to accommodate the high speed ferry service to the City's Main Street Pier. This final rule incorporates the City's modifications to the Special Anchorage. As requested by the City of Yonkers, the southern boundary of the Main Street

anchorage area is moved 350 yards north thereby reducing the size of the Main Street anchorage from .04 square nautical miles to .02 square nautical miles.

We also received a letter from the Hudson River Pilots Association advising that the northern edge of the Main Street Anchorage, being approximately 550 feet south of their dock, does not provide an adequate transit route for their pilot boat, especially during certain tide and current conditions. The Pilots requested a minimum 1000-foot buffer to ensure safe passage for all mariners involved. The Coast Guard has considered the Pilots' request and concluded that the 550-foot buffer does provide adequate room for all mariners to navigate within and around the Special Anchorage Area. Therefore no change from the proposed anchorage is made to the final rule.

A slight revision was made to the position of the anchorage area at JFK Marina. During the NPRM process, the Coast Guard requested that NOAA review the coordinate conversion process we used to convert the coordinates from the City's municipal maps to the navigational charts. NOAA advised us that we had made an error in the conversion process. Based upon this information, the Coast Guard advised the public of the new coordinates through Local Notice to Mariners 35/04. No change was made to the size or the shape of the anchorage, only the coordinates were changed. Therefore a change from the proposed anchorage is made to the final rule.

### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of Department of Homeland Security is unnecessary. This finding is based on the fact that this rule conforms to the changing needs of the City of Yonkers and the changing needs of recreational vessels along the Hudson River. This rule is in the interest of safe navigation and property protection.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 Mr. John J. Mauro at the address listed in ADDRESSES above.

### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism. The two comments received by the Coast Guard which resulted in a change to this Final Rule do not affect our analysis under Federalism.

### 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 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. This rule will not impose an unfunded mandate.

### Taking of Private Property

This rule does not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an

explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule did not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph 34(f), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environment documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES. This rule fits paragraph 34(f) of Commandant Instruction M16475.1D as it establishes two special anchorage areas.

#### List of Subjects in 33 CFR Part 110

Anchorage grounds.

#### Regulations

■ 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, 2030, 2035 and 2071; 33 CFR 1.05-1(g); and Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 110.60 add new paragraphs (o-4) and (o-5) to read as follows:

#### § 110.60 Port of New York and vicinity

\* \* \* \* \*

(o) \* \* \*  
(o-4) *Hudson River, at Main Street, Yonkers.* That portion of the Hudson River starting on shore at point 40°56'15.4" N, 073°54'11.2" W; thence northwest to point 40°56'16.7" N, 073°54'20.2" W; thence south to point 40°56'08.9" N, 073°54'22.6" W; thence southeast to point 40°56'07.9" N, 073°54'16.9" W; thence south to the Recreational Pier of the City of Yonkers at point 40°56'07.0" N, 073°54'17.3" W.

**Note:** This area is limited to vessels no greater than 20 meters in length and is primarily for use by recreational craft on a seasonal or transient basis. These

regulations do not prohibit the placement of moorings within the anchorage area, but requests for the placement of moorings should be directed to the local government to ensure compliance with local and state laws. All moorings shall be so placed that no vessel, when anchored, will at any time extend beyond the limits of the area. Fixed mooring piles or stakes are prohibited. Mariners are encouraged to contact the local harbor master for any additional ordinances and to ensure compliance with additional applicable state and local laws.

(o-5) *Hudson River, at JFK Marina, Yonkers.* That portion of the Hudson River starting on shore at point 40°57'28.0" N, 073°53'46.1" W; thence west to point 40°57'30.5" N, 073°53'56.7" W; thence southwest to point 40°57'07.5" N, 073°54'06.2" W; thence east to shore at point 40°57'06.0" N, 073°53'59.5" W.

**Note:** This area is limited to vessels no greater than 20 meters in length and is primarily for use by recreational craft on a seasonal or transient basis. These regulations do not prohibit the placement of moorings within the anchorage area, but requests for the placement of moorings should be directed to the local government to ensure compliance with local and state laws. All moorings shall be so placed that no vessel, when anchored, will at any time extend beyond the limits of the area. Fixed mooring piles or stakes are prohibited. Mariners are encouraged to contact the local harbor master for any additional ordinances and to ensure compliance with additional applicable state and local laws.

\* \* \* \* \*

Dated: November 9, 2004.

**John L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*  
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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD08-04-010]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Bayou Portage, Pass Christian, MS

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is changing the requirements for the operation of the draw of the Henderson Avenue bascule bridge across Portage Bayou, mile 2.0 at Pass Christian, MS. The old low-level bascule span has been removed and the new mid-level bascule span bridge has been constructed on the same alignment and completed. This final rule establishes a two-hour notice requirement for an opening of the draw for the bridge.

**DATES:** This rule is effective December 30, 2004.

**ADDRESSES:** Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, New Orleans, Louisiana 70130-3310, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Phil Johnson, Bridge Administration Branch, at (504) 589-2965.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

On April 1, 2004 we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Bayou Portage, Pass Christian, MS in the **Federal Register** [69 FR 17122]. Concurrent with publishing the NPRM, the Coast Guard published a temporary rule in the same **Federal Register** [69 FR 17055] that established a two-hour notice requirement for an opening of the draw to navigation. The temporary rule was in effect from April 10, 2004 through October 10, 2004. The purpose of the temporary rule was to provide interim operating requirements for the Henderson Avenue bascule span bridge while the Coast Guard conducted the rulemaking to implement permanent regulations for the operation of the bridge. We received one letter commenting on the proposed rule. No public meeting was requested, and none was held.

#### Background and Purpose

The old Henderson Avenue low-level bascule span bridge across Bayou Portage at Pass Christian, MS has been demolished and removed and the new, mid-level bascule span bridge has been constructed on the exact same alignment. It was opened to vehicular traffic and placed in service on April 10, 2004. A special operating regulation previously existed for the old bridge,