

i. Revise paragraph (k)(2).

The additions and revisions read as follows:

**§ 273.18 Claims against households.**

\* \* \* \* \*

(d) \* \* \*

(3) States must establish claims even if they cannot be established within the timeframes outlined under paragraph (d) of this section.

(e) \* \* \*

(3) \* \* \*

(iv) \* \* \*

(O) If allotment reduction is to be imposed, a due date or time frame to either repay or make arrangements to repay the claim in the event that the household stops receiving benefits.

\* \* \* \* \*

(5) \* \* \*

(iii) The date of delinquency for a claim covered under paragraph (e)(5)(i)(B) of this section is the due date of the missed installment payment unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial notification/demand letter. \* \* \*

\* \* \* \* \*

(k) \* \* \*

(2) These rates do not apply to:

(i) Any reduction in benefits when you disqualify someone for an IPV;

(ii) The value of court-ordered public service performed in lieu of the payment of a claim; or,

(iii) Payments made to a court that are not subsequently forwarded as payment of an established claim.

\* \* \* \* \*

**PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS**

**§ 276.2 [Amended]**

5. In § 276.2, amend paragraph (c) by removing “273.18(h)” and adding in its place “273.18(l)”.

\* \* \* \* \*

Dated: March 22, 2009.

**E. Enrique Gomez,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. E9-7151 Filed 4-1-09; 8:45 am]

**BILLING CODE 3410-30-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

[Docket No. USCG-2008-0047]

RIN 1625-AA01

**Anchorage Regulations; Port of New York and Vicinity**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** This document supplements the Coast Guard's May 2008 proposal to amend the existing special anchorage area at Perth Amboy, New Jersey, at the junction of the Raritan River and Arthur Kill. The proposed amendment is necessary to facilitate safe navigation and provide for a safe and secure anchorage for vessels of not more than 65 feet in length. This supplemental notice of proposed rulemaking provides updated coordinates for the proposed amendment and revises the proposed use limitations.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 4, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG-2008-0047 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Mr. Jeff Yunker, Waterways Management Coordinator, Coast Guard, telephone 718-354-4195, e-mail [Jeff.M.Yunker@uscg.mil](mailto:Jeff.M.Yunker@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

**Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0047), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG-2008-0047” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

**Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2008-0047 in the Docket ID box, press

Enter, and then click on the item in the Docket ID column. 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, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

#### Public Meeting

We do not now plan to hold a public meeting. But, you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

During times of tidal shifts, vessels moored near the edge of this special anchorage area were found swinging out into the Raritan River Cutoff and the Raritan River Federal Channels. Since moored vessels in a special anchorage area are exempt from the Inland Rules of the Road [Rule 30 (33 U.S.C. 2030) and Rule 35 (33 U.S.C. 2035)]; vessels swinging out into these Federal Channels create a high risk of collision with larger commercial vessels that transit past this special anchorage area, especially at night and during times of inclement weather. Also, when larger commercial vessels maneuver to avoid a collision with recreation vessels that swing out into these channels it creates a hazardous, close-quarters passing situation with other larger commercial vessels operating within these Federal Channels.

On May 8, 2008, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Anchorage Regulations; Port of New York and Vicinity" (Docket number USCG-2008-0047) in the **Federal Register** (73 FR 26054). In that NPRM, the Coast Guard proposed to add a "note" to the regulation. The Coast Guard received

two letters commenting on the NPRM, and one request for a public meeting.

#### Discussion of Comments and Changes

The Coast Guard received two letters commenting on the NPRM, and both letters stated that the geographic points appeared to be incorrect. The Coast Guard agrees with these comments. It was determined that, during the Coast Guard's internal review process prior to publication of the NPRM, the incorrect positions from an earlier draft were transposed to the final version of the NPRM that was published in the **Federal Register**. The special anchorage area location was submitted to the National Oceanographic and Atmospheric Administration (NOAA) and they provided the positions so the special anchorage area would be displayed adjacent to the Federal Channel on navigation charts. The positions proposed in this supplemental NPRM were provided by NOAA to correct this issue.

In addition to correction of the coordinates as discussed above, one commenter requested the following three revisions.

First, the commenter requested that the Coast Guard enlarge the special anchorage area one block north to Smith Street as extended to give certain city moorings the benefit of a special anchorage. The current special anchorage area bisects the Municipal Marina, and the commenter's proposed change would cover the waters to the end of the Municipal Marina. The Coast Guard agrees because the extension covers waters under the jurisdiction of the Perth Amboy Municipal Marina, and this supplemental NPRM proposes to extend the northern boundary of the special anchorage area to an extension of Smith Street.

Second, the commenter requested that the Coast Guard require only that vessels in the special anchorage area and their attached moorings do not impinge on the Shipping Channels, and require no additional buffer zone between the recreational vessels and the Federal Channel. The Coast Guard agrees. This comment has been incorporated into the revised positions provided by NOAA to display the special anchorage area adjacent to the Federal Channel, and proposed in this supplemental NPRM.

Third, the commenter requested that the Coast Guard revise the proposed "note" to provide that mariners contact the Fleet Captain of the Raritan Yacht Club at 732-297-7727, 732-826-2277 or on VHF Channel 9, and only prohibit the use of mooring piles or stakes seaward of the pier head line in

accordance with the Waterfront Management Plan for the Mooring Field at Perth Amboy, NJ as authorized by the New Jersey Department of Environmental Protection. The Coast Guard agrees and has revised the proposed rule to include these changes. The Coast Guard also has removed the designation "note" from this proposed text, and replaced it with the new paragraph designation (d)(10)(i).

The commenter who submitted the requests above also requested a public meeting "in the event" that the requestor's comments were not incorporated. Because the Coast Guard agrees with the comments above and has incorporated them into this supplemental NPRM for further public comment, the Coast Guard believes a public meeting would not aid this rulemaking.

Finally, this supplemental NPRM reflects technical amendments made between the publication of the May 2008 NPRM and this supplemental NPRM. (See 73 FR 35010.) As a result of these technical amendments, the regulation for this special anchorage area is now codified at 33 CFR 110.60(d)(10), instead of 33 CFR 110.60(aa). Similarly, 33 CFR 110.60 was titled "Port of New York and vicinity" when the May 2008 NPRM issued, but now is titled "Captain of the Port, New York"; to avoid confusion the Coast Guard has not changed the title of this supplemental NPRM.

As discussed above, this supplemental NPRM proposes corrected coordinates for the special anchorage area. Further, this rulemaking is intended to reduce the risk of vessel collisions by adding amplifying information regarding the use of the special anchorage area. This would be accomplished by adding the following: "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 Raritan Yacht Club Fleet Captain (telephone 732-297-7727, 732-826-2277, or VHF Channel 9) 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 seaward of the pier head line. Mariners are encouraged to contact the Raritan Yacht Club Fleet Captain for any additional ordinances and to ensure compliance with additional applicable state and local laws."

This proposed addition will greatly increase navigation safety and is necessary due to the boundary of the special anchorage area being adjacent to the Raritan River Cutoff and Raritan River Federal Channels.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

This proposed 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 section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This finding is based on the fact that this rule would require recreational vessels to anchor a greater distance from the Raritan River Cutoff and Raritan River Federal Channels. As displayed on the government navigation charts, the current boundaries of the special anchorage area and adjacent Federal Channels nearly overlap. This proposed rule would greatly reduce the possibility of marine casualties, pollution incidents, or human fatalities that could be caused by these recreational vessels anchoring within, or near, the Federal Channels and causing a collision with any of the approximately 5,000 commercial vessels that transit the Raritan River Cutoff Channel on an annual basis. Vessel transit statistics from the ACOE Navigation Data Center are available online at: <http://www.iwr.usace.army.mil/ndc/wcsc/wcsc.htm>. Additionally, vessels would still be able to anchor in an area approximately 850 to 1,050 yards wide by 480 to 980 yards long off the southern Perth Amboy shoreline.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of recreational vessels intending to anchor immediately adjacent to Raritan River Cutoff and Raritan River Federal Channels, which could cause a marine casualty, pollution incident, or human fatality, due to a commercial vessel colliding with the anchored or moored recreational vessel(s). It would also affect commercial vessels by reducing the possibility that they will encounter hazardous, close-quarters passing conditions created by recreational vessels within the channels. However, the requirements contained within the proposed rule would not have a significant economic impact on these entities for the following reasons: The revised special anchorage area would require vessels to moor, or anchor, at a greater distance from the Raritan River and Raritan River Cutoff Federal Channels, reducing the threat of collision with vessels transiting the adjacent Federal Channel. This special anchorage area was never designed to authorize vessels to anchor, or moor, in a manner where they would extend into the Federal Channel creating a hazard to navigation. Additionally, vessels would still be able to anchor in an area approximately 850 to 1,050 yards wide by 480 to 980 yards long off the southern Perth Amboy shoreline.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Mr. Jeff Yunker, Waterways Management Coordinator, Coast Guard Sector New York, at 718–354–4195. The Coast Guard will not retaliate against small

entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### Collection of Information

This proposed rule would call 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 proposed rule under that Order and have determined that it does not have implications for 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed 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

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed 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 proposed 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which does not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated

under **ADDRESSES**. This proposed rule involves changes to the size of a special anchorage area. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 110.60, by revising paragraph (d)(10) to read as follows:

§ 110.60 Captain of the Port, New York.

\* \* \* \* \*

(d) \* \* \*

(10) *Perth Amboy, NJ*. All waters bound by the following points: 40°30'26.00" N, 074°15'42.00" W; thence to 40°30'24.29" N, 074°15'35.20" W; thence to 40°30'02.79" N, 074°15'44.16" W; thence to 40°29'35.70" N, 074°16'08.88" W; thence to 40°29'31.00" N, 074°16'20.75" W; thence to 40°29'47.26" N, 074°16'49.82" W; thence to 40°30'02.00" N, 074°16'41.00" W, thence along the shoreline to the point of origin.

(i) 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 Raritan Yacht Club Fleet Captain (telephone 732-297-7727, 732-826-2277 or VHF Channel 9) 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 seaward of the pier head line. Mariners are encouraged to contact the Raritan Yacht Club Fleet Captain for any additional ordinances or laws and to ensure compliance with additional applicable state and local laws.

(ii)[Reserved]

\* \* \* \* \*

Dated: February 27, 2009.

**Dale G. Gabel,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. E9-7357 Filed 4-1-09; 8:45 am]

**BILLING CODE 4910-15-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 51 and 59

[EPA-HQ-OAR-2006-0971; FRL-8788-4]

RIN 2060-AP33

#### National Volatile Organic Compound Emission Standards for Aerosol Coatings

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the National Volatile Organic Compound Emission Standards for Aerosol Coatings (aerosol coatings reactivity rule), which establishes national reactivity-based emission standards for the aerosol coatings category (aerosol spray paints) under section 183(e) of the Clean Air Act. This proposed action amends Table 2A of the aerosol coatings reactivity rule by adding compounds and associated reactivity factors based on petitions we received; and by clarifying which volatile organic compounds are to be quantified in compliance determinations. Additionally, we are proposing certain changes related to the notice required for a company to certify that it will assume the responsibility for compliance with record keeping and reporting requirements for a regulated entity, and taking comment on whether to change who is liable following such certification. Finally, this action proposes minor revisions and corrections to the aerosol coatings reactivity rule.

**DATES:** Comments must be received on or before May 4, 2009, unless a public hearing is requested by April 13, 2009. If a hearing is requested on the proposed rule, written comments must be received by May 18, 2009.

**Public Hearing.** If anyone contacts EPA requesting to speak at a public hearing concerning the proposed regulation by April 13, 2009, a public hearing will be held on or about April 17, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-0971, by one of the following methods: