

Service, 1111 Constitution Avenue, NW., Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-112994-06).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, S. James Hawes at (202) 622-3860; concerning submissions of comments and a request for a public hearing, contact Funmi Taylor at (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background and Explanation of Provisions**

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 7874 of the Code. The temporary regulations address certain issues relating to the treatment of a foreign corporation as a surrogate foreign corporation under section 7874(a)(2)(B). The text of the temporary regulations serves as the text of these proposed regulations, and the preamble to the temporary regulations explains these proposed regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) does not apply to these regulations. These regulations do not impose a collection of information. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The complexity and cost of a transaction to which section 7874 may apply make it unlikely that a substantial number of small entities will engage in such a transaction. In addition, any economic impact to entities affected by section 7874, large or small, is derived from the operation of the statute or its intended application, not the regulations in this notice of proposed rulemaking. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Request for a Public Hearing**

Before these proposed regulations are adopted as final regulations,

consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these proposed regulations is S. James Hawes of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Withdrawal of Notice of Proposed Rulemaking**

Accordingly, under the authority of 26 USC 7805, the notice of proposed rulemaking (E6-8698) that was published in the **Federal Register** on June 6, 2006 (71 FR 32495) is withdrawn.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.7874-2 is also issued under 26 U.S.C. 7874(c)(6) and (g). \* \* \*

**Par. 2.** Section 1.7874-1 is amended by revising paragraphs (e) and (g) to read as follows:

**§ 1.7874-1 Disregard of affiliate-owned stock.**

\* \* \* \* \*  
(e) [The text of the proposed amendments to § 1.7874-1(e) is the same as the text of § 1.7874-1T(e) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*  
(g) [The text of the proposed amendment to § 1.7874-1(g) is the same as the text of § 1.7874-1T(g) published elsewhere in this issue of the **Federal Register**.]

**Par. 3.** Section 1.7874-2 is added to read as follows:

**§ 1.7874-2 Surrogate foreign corporation.**

[The text of proposed § 1.7874-2 is the same as the text of § 1.7874-2T(a) through (o) published elsewhere in this issue of the **Federal Register**.]

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E9-13769 Filed 6-9-09; 11:15 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

[Docket No. USCG-2008-0171]

RIN 1625-AA01

**Anchorage Regulations; Long Island Sound**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish seven anchorage grounds in Long Island Sound. These anchorages would be located within Connecticut or New York State waters. This action is necessary to aid in facilitating the safe and secure anchorage of vessels, particularly deep draft vessels, transiting Long Island Sound or awaiting entry to a port or facility in New York and Connecticut.

**DATES:** Comments and related material must be received by the Coast Guard on or before August 11, 2009. Requests for public meetings must be received by the Coast Guard on or before July 13, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG-2008-0171 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 four 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 LT Doug Miller, Prevention Department Sector Long Island Sound, Coast Guard, telephone 203-468-4596, e-mail [Douglas.J.Miller@uscg.mil](mailto:Douglas.J.Miller@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-2008-0171), 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 mailing address, an e-mail address, or a phone 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-2008-0171” 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 comments 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-2008-0171” 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 a public meeting on or before July 13, 2009 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**

The Coast Guard proposes to establish seven anchorage grounds in Long Island Sound in accordance with 33 CFR 109.05 and 110.1(b).

The Coast Guard consulted with several agencies in the development of these proposed anchorage grounds, including: The Army Corps of Engineers New England District; the Army Corps of Engineers New York District; the National Oceanic and Atmospheric Administration (NOAA); the National Marine Fisheries Service (NMFS); the Connecticut Department of

Environmental Protection—Office of Long Island Sound Programs; the New York Department of State; and the New York Department of Conservation. Additionally, the licensed marine pilot organizations of both Connecticut and New York were consulted due to their extensive knowledge of the usage and need for anchorage grounds in Long Island Sound.

In determining the need for, and appropriate location of, the proposed anchorage grounds, we considered several factors, including: The commercial need for anchorage grounds; proximity to ports; safety of navigation; potential impact on commercial fishing; location of dredged material disposal sites; maritime security; environmental implications; and location of known underwater obstructions, cables, pipelines, and wrecks.

The proposed anchorage grounds are designated for general purposes, but are intended primarily for use by commercial vessels of 300 gross tons and greater and all tank vessels including tank barges. This proposed regulation would not restrict anchorage in any other area of the Sound.

Creating official anchorage areas through this rulemaking would cause more vessels to anchor in these areas, in addition to the large number that already do so, thereby providing the Captain of the Port with increased options for vessels needing to anchor while awaiting authorization to enter port. The designation of anchorage grounds would provide for the safety of navigation by providing designated locations for anchorage of deep draft vessels throughout Long Island Sound, in close proximity to the major ports of Bridgeport, New Haven, and New London, Connecticut, and Riverhead, Northport, and Port Jefferson, New York. Vessels transiting Long Island Sound would be on notice that vessels may be anchored in the anchorage grounds, thus providing for the safety of navigation. There are no cable or pipeline areas running through any of the seven proposed areas. Designation of these anchorage grounds would help guide the installation of future cables or pipelines so that they are located outside of the anchorage grounds. Keeping these areas free of underwater obstructions helps ensure safe navigation.

Recently, the U.S. Environmental Protection Agency (EPA) considered the designation of one or more open-water dredged material disposal sites in the western and central regions of Long Island Sound, off the coasts of Connecticut and New York. An Environmental Impact Statement for the

Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound is available at: <http://www.epa.gov/region01/eco/lisdreg/index.html>. Two of the proposed dredged material disposal site areas are located off the coasts of Bridgeport and New Haven, Connecticut. In order to prevent disturbance of contaminated sediment, the proposed anchorage grounds off of Bridgeport and New Haven have been configured so that they are at least 1,000 yards, or one-half nautical mile, from the proposed disposal areas.

Additionally, the proposed anchorage grounds have been examined in relation to historic disposal sites. None of the proposed anchorages overlaps with a historic dredge disposal site.

The location of several submarine cables and pipelines carrying electricity and natural gas are de facto limitations on anchoring as these are hazards for vessels anchoring elsewhere in the Sound. Past anchor snags of submarine cables have interrupted use of the cable; snags also present potential hazards to the stability of vessels, as well as to the marine environment should the housing of the cable contain any environmentally harmful materials. Establishment of these anchorage grounds would provide for protection of the environment in that vessels may anchor in an area free from cables. This would provide protections against anchor strikes of submarine cables and pipelines.

We anticipate no negative impact to the fishing community, including dragging, lobster, and shellfish fishing. This proposed rule does not intend to exclude fishing activity or the transit of vessels in the anchorage grounds. Rather, the regulations would only require that all vessels maintain a distance of 500 yards from an anchored vessel that is carrying petroleum or other flammable cargo, or that is conducting bunkering or lightering operations. Such anchored vessels are readily identified as, under the proposed rule, they must display a red flag by day or a red light at night in addition to the required navigation lights and shapes. This rule would require that vessels fishing and/or transiting through the anchorages maintain that pre-established distance from said anchored vessels. We anticipate the designation of these anchorage grounds may increase the number of anchored vessels in the area; however such increase will cause only minimal interference to transiting vessels as the proposed areas have historically been utilized for anchoring. Additionally, the proposed anchorage

grounds have been configured so they do not overlap with leased shellfish beds.

The NOAA Navigation Manager for the Northeast Region has provided information regarding the location of wrecks within Long Island Sound. No historical wrecked vessels are located within any of the proposed anchorage grounds.

**Discussion of Proposed Rule**

The proposed rule would create seven new anchorage grounds named for proximity to geographical locations. The geographic locations are described below:

(1) *Bridgeport Anchorage Ground*. That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°05'30" N .....	73°13'30" W; thence to
41°05'00" N .....	73°11'00" W; thence to
41°02'30" N .....	73°12'18" W; thence to
41°04'00" N .....	73°16'30" W; returning to point of origin.

(2) *New Haven North Anchorage Ground*. That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°12'18" N .....	72°52'36" W; thence to
41°12'18" N .....	72°49'36" W; thence to
41°10'12" N .....	72°48'18" W; thence to
41°10'12" N .....	72°52'12" W; thence to
41°11'06" N .....	72°53'06" W; returning to point of origin.

(3) *New Haven South Anchorage Ground*. That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°09'30" N .....	72°47'48" W; thence to
41°08'36" N .....	72°47'24" W; thence to
41°08'36" N .....	72°51'24" W; thence to
41°09'30" N .....	72°51'48" W; returning to point of origin.

(4) *New London Anchorage Ground*. That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°15'36" N .....	072°13'36" W; thence to
41°16'18" N .....	072°10'24" W; thence to
41°15'24" N .....	072°10'06" W; thence to
41°14'42" N .....	072°13'12" W; returning to point of origin.

(5) *Northport Anchorage Ground*. That portion of Long Island Sound

enclosed by a line connecting the following points:

Latitude	Longitude
40°58'48" N .....	073°16'30" W; thence to
40°57'42" N .....	073°11'42" W; thence to
40°56'30" N .....	073°13'30" W; thence to
40°57'36" N .....	073°18'12" W; returning to point of origin.

(6) *Port Jefferson Anchorage Ground*. That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°01'48" N .....	073°04'54" W; thence to
41°01'48" N .....	073°00'00" W; thence to
41°00'18" N .....	073°00'00" W; thence to
41°00'18" N .....	073°04'54" W; returning to point of origin.

(7) *Riverhead Anchorage Ground*. That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°03'00" N .....	072°42'00" W; thence to
41°04'00" N .....	072°36'00" W; thence to
41°02'00" N .....	072°35'24" W; thence to
41°01'24" N .....	072°41'24" W; returning to point of origin.

All coordinates referenced use datum: NAD 83.

These proposed anchorage grounds are designated for general purposes, but are primarily intended for commercial vessels of 300 gross tons and greater and all tank vessels including tank barges. Except in cases of emergencies, commercial vessels of 300 gross tons and greater and all tank vessels, including tank barges anchoring in the Captain of the Port Long Island Sound Zone inside the line of demarcation, would anchor in the anchorage grounds described above.

Prior to entering any of the proposed anchorage areas, all vessels would be required to notify the Coast Guard Captain of the Port via VHF-FM Channel 16. The Captain of the Port may prescribe specific conditions for vessels anchoring within the proposed zones described in this section, pursuant to 33 CFR 109.05.

This proposed rule would require that anchors be placed well within the anchorage areas, so that no portion of the hull or rigging will at any time extend outside of the anchorage area. All anchored vessels within the designated anchorage areas would be required to comply with the regulations in 33 CFR 164.19 and maintain a continuous bridge watch by a licensed

deck officer proficient in English, monitoring VHF-FM Channel 16. This individual would be required to confirm that the ship's crew performs frequent checks of the vessel's position to ensure the vessel is not dragging anchor.

Existing regulations at 33 CFR 156.118 require that, in anchorages where lightering is authorized, the Captain of the Port must be notified at least four hours in advance of a vessel conducting lightering operations. Under the proposed rule, any vessel conducting lightering or bunkering operations would be required to display by day a red flag at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night a red light in the same position specified for the flag. These signals would be in addition to day signals, lights, and sound signals required to be shown or sounded by all vessels when at anchor in a general anchorage.

Within the proposed anchorages, fishing and navigation would be prohibited within 500 yards of an anchored vessel that is carrying petroleum or other flammable cargo, or that is conducting bunkering or lightering operations. Such anchored vessels are readily identified as they would be required to display a red flag by day or a red light at night in addition to the required navigation lights and shapes.

This proposed rule would prohibit a vessel from occupying an anchorage for more than 30 days, unless the vessel obtains permission from the Captain of the Port. In the event of a request for the long-term lay up of a vessel, the Captain of the Port may establish special conditions with which the vessel must comply in order for such a request to be approved.

No vessel in such condition that it is likely to sink or otherwise become a menace or obstruction to navigation or anchorage of other vessels would be allowed to occupy an anchorage, except in cases where unforeseen circumstances create conditions of imminent peril to personnel, and then only for such period as may be authorized by the Captain of the Port.

The proposed rule specifies that the Coast Guard Captain of the Port may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety and security. Under the proposed rule, any vessel anchored in these areas must be capable of getting underway if ordered by the Captain of the Port and must do so within 2 hours. If a vessel would not be able to get underway within 2 hours of

notification, it would be required to request permission from the Captain of the Port to remain. No vessel would be allowed to anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without prior approval from the Captain of the Port.

Finally, fixed moorings, piles or stakes are prohibited.

### 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.

The proposed rule is not significant because there are no fees, permits, or special requirements for the maritime industry to utilize these anchorage areas. The regulation is solely for the purpose of advancing the safety of maritime commerce. We anticipate no negative impact to the fishing community, including dragging, lobster, and shellfish fishing. This rule would not exclude fishing activity or vessel transit in the anchorage grounds. It would only require that vessels fishing and or transiting through the anchorages maintain a distance of 500 yards from an anchored vessel displaying a red flag by day or a red light by night. The Coast Guard anticipates the proposed anchorage grounds would cause minimal transit interference, by way of increased vessel anchorage, as these areas have historically been utilized for anchoring. This regulation would add to existing regulations in order to make best use of available water. Some of the proposed requirements in this regulation reflect existing regulatory requirements and many of the proposed requirements in this regulation are already practiced as a matter of prudent seamanship. Moreover, all of the regulatory changes are proposed in the interest of safe navigation and protection of the Captain of the Port zone.

### 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 may be small entities: Commercial vessels wishing to transit or fish in the portions of Long Island Sound covered by this regulation. This proposed rule should have minimal economic impact on lobster fishing vessels, small commercial vessels, or recreational boaters. This conclusion is based upon the fact that the only restriction for entry or use of the proposed anchorages targeting small entities is for all vessels to maintain a distance of 500 yards from an anchored vessel displaying a red flag by day or a red light by night. The proposed regulation would only create seven new anchorage grounds. These areas historically have been, and routinely are, used for anchorage by both deep draft and smaller vessels. The proposed anchorage grounds do not interfere with or overlap existing ferry routes between Connecticut and Long Island, New York.

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 LT Doug Miller at (203) 468-4596 or e-mail [Douglas.J.Miller@uscg.mil](mailto:Douglas.J.Miller@uscg.mil). 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 governments, 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 023–01 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 under the Instruction that this action is one of a category of actions which do 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 the establishment of anchorages and falls under the

categorical exclusion for promulgation of regulations, specifically Categorical Exclusion paragraph 34(f) of the Instruction.

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. Add § 110.146 to read as follows:

**§ 110.146 Long Island Sound.**

(a) *Anchorage grounds.*

(1) *Bridgeport Anchorage Ground.*

That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°05'30" N .....	73°13'30" W; thence to
41°05'00" N .....	73°11'00" W; thence to
41°02'30" N .....	73°12'18" W; thence to
41°04'00" N .....	73°16'30" W; returning to point of origin.

(2) *New Haven North Anchorage Ground.* That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°12'18" N .....	72°52'36" W; thence to
41°12'18" N .....	72°49'36" W; thence to
41°10'12" N .....	72°48'18" W; thence to
41°10'12" N .....	72°52'12" W; thence to
41°11'06" N .....	72°53'06" W; returning to point of origin.

(3) *New Haven South Anchorage Ground.* That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°09'30" N .....	72°47'48" W; thence to
41°08'36" N .....	72°47'24" W; thence to
41°08'36" N .....	72°51'24" W; thence to
41°09'30" N .....	72°51'48" W; returning to point of origin.

(4) *New London Anchorage Ground.* That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°15'36" N .....	072°13'36" W; thence to
41°16'18" N .....	072°10'24" W; thence to
41°15'24" N .....	072°10'06" W; thence to
41°14'42" N .....	072°13'12" W; returning to point of origin.

(5) *Northport Anchorage Ground.* That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
40°58'48" N .....	073°16'30" W; thence to
40°57'42" N .....	073°11'42" W; thence to
40°56'30" N .....	073°13'30" W; thence to
40°57'36" N .....	073°18'12" W; returning to point of origin.

(6) *Port Jefferson Anchorage Ground.* That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°01'48" N .....	073°04'54" W; thence to
41°01'48" N .....	073°00'00" W; thence to
41°00'18" N .....	073°00'00" W; thence to
41°00'18" N .....	073°04'54" W; returning to point of origin.

(7) *Riverhead Anchorage Ground.* That portion of Long Island Sound enclosed by a line connecting the following points:

Latitude	Longitude
41°03'00" N .....	072°42'00" W; thence to
41°04'00" N .....	072°36'00" W; thence to
41°02'00" N .....	072°35'24" W; thence to
41°01'24" N .....	072°41'24" W; returning to point of origin.

All coordinates referenced use datum: NAD 83.

(b) *General regulations.* (1) These anchorages are designated for general purposes, but are intended primarily for use by commercial vessels of 300 gross tons and greater and all tank vessels including tank barges. Except in cases of emergencies, commercial vessels of 300 gross tons and greater and all tank vessels, including tank barges anchoring in the Captain of the Port Long Island Sound Zone inside the line of demarcation, shall anchor in the anchorage grounds described above.

(2) Prior to entering the anchorage area, all vessels shall notify the Coast Guard Captain of the Port via VHF-FM Channel 16.

(3) In anchorages where lightering and bunkering operations are authorized, the Captain of the Port must be notified at least four hours in advance of a vessel conducting lightering or bunkering operations, as required by § 156.118 of

this title. In addition, all lightering and bunkering operations must be done in accordance with § 156.120 of this title.

(4) Within an anchorage, fishing and navigation are prohibited within 500 yards of an anchored vessel that is carrying petroleum or other flammable cargo, or that is conducting bunkering or lightering operations. Such anchored vessels are readily identified as they are required to display a red flag by day or a red light at night in addition to the required navigation lights and shapes.

(5) Except as otherwise provided, a vessel may not occupy an anchorage for more than 30 days, unless the vessel obtains permission from the Captain of the Port.

(6) If a request is made for the long-term lay up of a vessel, the Captain of the Port may establish special conditions with which the vessel must comply in order for such a request to be approved.

(7) The Captain of the Port may prescribe specific conditions for vessels anchoring within the zones described in this section, pursuant to 33 CFR 109.05. These conditions may include, but are not limited to: The number and location of anchors; scope of chain; readiness of the engineering plant and equipment; use of tugs; and requirements for maintaining communication guards on selected radio frequencies.

(8) No vessel in such condition that it is likely to sink or otherwise become a menace or obstruction to navigation or anchorage of other vessels shall occupy an anchorage, except in cases where unforeseen circumstances create conditions of imminent peril to personnel, and then only for such period as may be authorized by the Captain of the Port.

(9) All vessels anchored within the designated anchorage areas shall comply with the regulations found in 33 CFR 164.19 and shall maintain a continuous bridge watch by a licensed deck officer proficient in English, monitoring VHF-FM Channel 16. This individual shall confirm that the ship's crew performs frequent checks of the vessel's position to ensure the vessel is not dragging anchor.

(10) Anchors shall be placed well within the anchorage areas so that no portion of the hull or rigging will at any time extend outside of the anchorage area.

(11) The Coast Guard Captain of the Port may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety and security.

(12) Any vessel anchored in these areas must be capable of getting

underway if ordered by the Captain of the Port and must do so within 2 hours, if a vessel will not be able to get underway within 2 hours of notification, permission must be requested by the Captain of the Port to remain in the anchorage. 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.

(13) Fixed moorings, piles or stakes are prohibited.

(14) Any vessel conducting lightering or bunkering operations shall display by day a red flag (Bravo flag) at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night a red light in the same position specified for the flag. These signals shall be in addition to day signals, lights and whistle signals required to be shown or sounded by all vessels when at anchor in a general anchorage.

Dated: 27 May 2009.

**Dale G. Gabel,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0359]

RIN 1625-AA00

#### Safety Zone; Sabine River, Orange, TX

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on September 19 and 20, 2009 for a portion of the Sabine River, shoreline to shoreline, adjacent to the Naval Reserve Center and the Orange public boat ramps located in Orange, TX. The northern boundary is from the end of Navy Pier One at 30°05'45" N 93°43'24" W then easterly to the river's eastern shore. The southern boundary is a line shoreline to shoreline at latitude 30°05'33" N. This safety zone is needed to protect spectators and vessels from potential safety hazards associated with a high speed boat race. With the exception of participating vessels and patrol craft, entry into this zone is prohibited unless specifically authorized by the Captain of the Port, Port Arthur, or a designated representative.