

accordance with the per-page amount established in OSHRC's fee schedule. See Appendix A to this part. For other forms of duplication, direct costs of producing the copy, including operator time, shall be calculated and assessed. Copying fees shall not be charged for the first 100 pages of copies unless the copies are requested for a commercial use. No copying fee shall be charged for educational, scientific, or news media requests if the agency fails to comply with any time limit in § 2201.6, provided that no unusual or exceptional circumstances (as those terms are defined in § 2201.6(b) and § 2201.4(e), respectively) apply to the processing of the request.

(2) *Search fee.* Search fees shall be calculated in accordance with the amounts established in OSHRC's fee schedule. See Appendix A to this part. Commercial requesters shall be charged for all search time, except as described below. Search fees shall be charged even if the responsive documents are not located or if they are located but withheld on the basis of an exemption. However, search fees shall be limited or not charged as follows:

\* \* \* \* \*

(v) *Failure to comply with time limits.* No search fee shall be charged if the agency fails to comply with any time limit in § 2201.6, provided that no unusual or exceptional circumstances (as those terms are defined in § 2201.6(b) and § 2201.4(e), respectively) apply to the processing of the request.

\* \* \* \* \*

(e) *Fees likely to exceed \$25.* If the total fee charges are likely to exceed \$25, the FOIA Disclosure Officer shall notify the requester of the estimated amount of the charges, unless the requester has indicated a willingness to pay fees up to the estimated amount. The notification shall offer the requester an opportunity to confer with the FOIA Disclosure Officer to reformulate the request to meet the requester's needs at a lower cost. In cases in which a requester has been notified that actual or estimated fees amount to more than \$25, the request shall not be considered received and further work shall not be done on it until the requester agrees to pay the actual or estimated total fee. Any such agreement shall be memorialized in writing.

\* \* \* \* \*

6. Section 2201.10 is amended by:
- Revising paragraphs (a)(3), (5), and (7);
  - Redesignating paragraphs (a)(8), (10), and (11) as paragraphs (a)(16) through (a)(18);
  - Removing paragraph (a)(9); and

d. Adding new paragraphs (a)(8) through (a)(15).

The revisions and additions read as follows:

**§ 2201.10 Maintenance of statistics.**

(a) \* \* \*

(3) A complete list of all statutes that the agency used to authorize the withholding of information under 5 U.S.C. 552(b)(3), which exempts information that is specifically exempted from disclosure by other statutes and the number of occasions on which each statute was relied upon;

\* \* \* \* \*

(5) The number of requests for records pending before the agency as of September 30 of the preceding year, and the median and average number of days that these requests had been pending before the agency as of that date;

\* \* \* \* \*

(7) The median number of days taken by the agency to process different types of requests, based on the date on which the requests were received by the agency;

(8) The average number of days for the agency to respond to a request beginning on the date on which the request was received by the agency, the median number of days for the agency to respond to such requests, and the range in number of days for the agency to respond to such requests;

(9) Based on the number of business days that have elapsed since each request was originally received by the agency—

(i) The number of requests for records to which the agency has responded with a determination within a period up to and including 20 days, and in 20-day increments up to and including 200 days;

(ii) The number of requests for records to which the agency has responded with a determination within a period greater than 200 days and less than 301 days;

(iii) The number of requests for records to which the agency has responded with a determination within a period greater than 300 days and less than 401 days; and

(iv) The number of requests for records to which the agency has responded with a determination within a period greater than 400 days;

(10) The average number of days for the agency to provide the granted information beginning on the date on which the request was originally filed, the median number of days for the agency to provide the granted information, and the range in number of days for the agency to provide the granted information;

(11) The median and average number of days for the agency to respond to administrative appeals based on the date on which the appeals originally were received by the agency, the highest number of business days taken by the agency to respond to an administrative appeal, and the lowest number of business days taken by the agency to respond to an administrative appeal;

(12) Data on the 10 active requests with the earliest filing dates pending at the agency, including the amount of time that has elapsed since each request was originally received by the agency;

(13) Data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

(14) The number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

(15) The number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations;

\* \* \* \* \*

[FR Doc. 2010-9432 Filed 4-27-10; 8:45 am]

BILLING CODE 7600-01-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

[Docket No. USCG 2008-1082]

RIN 1625-AA01

**Anchorage Regulations; Port of New York**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** This document supplements the Coast Guard's September 2009 proposal to amend Anchorage Ground No. 19 located east of the Edgewater-Weehawken Federal Channel on the Hudson River. The revised proposal is necessary to facilitate safe navigation and provide safe and secure anchorages for vessels operating in the area. This supplemental notice of proposed rulemaking amends the NPRM that incorrectly stated that the current Edgewater-Weehawken Federal Channel would be relocated as part of the

proposal to amend Anchorage Ground No. 19. This SNPRM also cancels two proposed changes to the Anchorage Regulation discussed in the NPRM and provides an additional opportunity for comment on the proposed changes to the regulations for Anchorage 19.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 28, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG–2008–1082 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 Mr. Jeff Yunker, Coast Guard Sector New York, Waterways Management Division; 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–2008–1082), 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 <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> and click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop-down menu select “Proposed Rule” and insert “USCG–2008–1082” in the “Keyword” box. Click “Search” 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> and click on the “Read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2008–1082” and click “Search.” Click the “Open Docket Folder” in the “Actions” 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**

The Hudson River Pilots Association, through the Port of New York/New Jersey Harbor Safety, Navigation and Operations Committee, has requested that the Coast Guard revise the boundaries of Anchorage Ground No. 19 which is located on the Hudson River, east of the Weehawken-Edgewater Federal Channel and south of the George Washington Bridge.

Due to severe recurring shoaling within the Weehawken-Edgewater Federal Channel, the Hudson River Pilots requested and received authorization from the Coast Guard and Army Corps of Engineers (ACOE) to pilot vessels through the deeper and safer water located within the boundaries of Anchorage Ground No. 19.

Due to shoaling, the March 2007 ACOE survey verified a controlling depth of 27 feet in the Right outside Quarter of the Weehawken-Edgewater Federal Channel where vessels bound for ports north of New York City would have to transit. As published by the ACOE Institute for Water Resources, vessels with drafts of up to 34 feet transit the Hudson River. In calendar year 2006, there were 6,562 transits on the Hudson River between the mouth of the Harlem River and Waterford, NY by vessels with a draft of 27 feet or greater. Vessels with a draft of 27 feet or greater would be required to transit through the deeper water which is within the current boundaries of Anchorage Ground No.19.

Tug and barge traffic within the harbor has increased 37% since 1991. Anchorage Ground No. 19 is the closest Anchorage Ground available for use when there is no space for temporary anchoring within the Upper New York Bay Anchorage Grounds. Hence, these vessels transit to Anchorage Ground No. 19 to await a berth, or orders, to minimize fuel consumption and provide

an orderly flow of commerce within the harbor and the New England region.

On October 14, 2008, the Coast Guard Captain of the Port New York issued an Advisory Notice notifying the maritime community that in accordance with 33 CFR 110.155(c)(5)(i), vessels would only be allowed to anchor on the western boundary of Anchorage Ground No. 19. This temporary solution was necessary to facilitate deep draft vessel transit through the eastern portion of Anchorage Ground No. 19.

On September 9, 2009, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Anchorage Regulations; Port of New York and Vicinity" (Docket number USCG-2009-1082) in the **Federal Register** (74 FR 47906). The proposal sought to amend Anchorage Ground No. 19 by dividing it into two separate anchorages (Anchorage Ground No. 19 West and Anchorage Ground No. 19 East), and

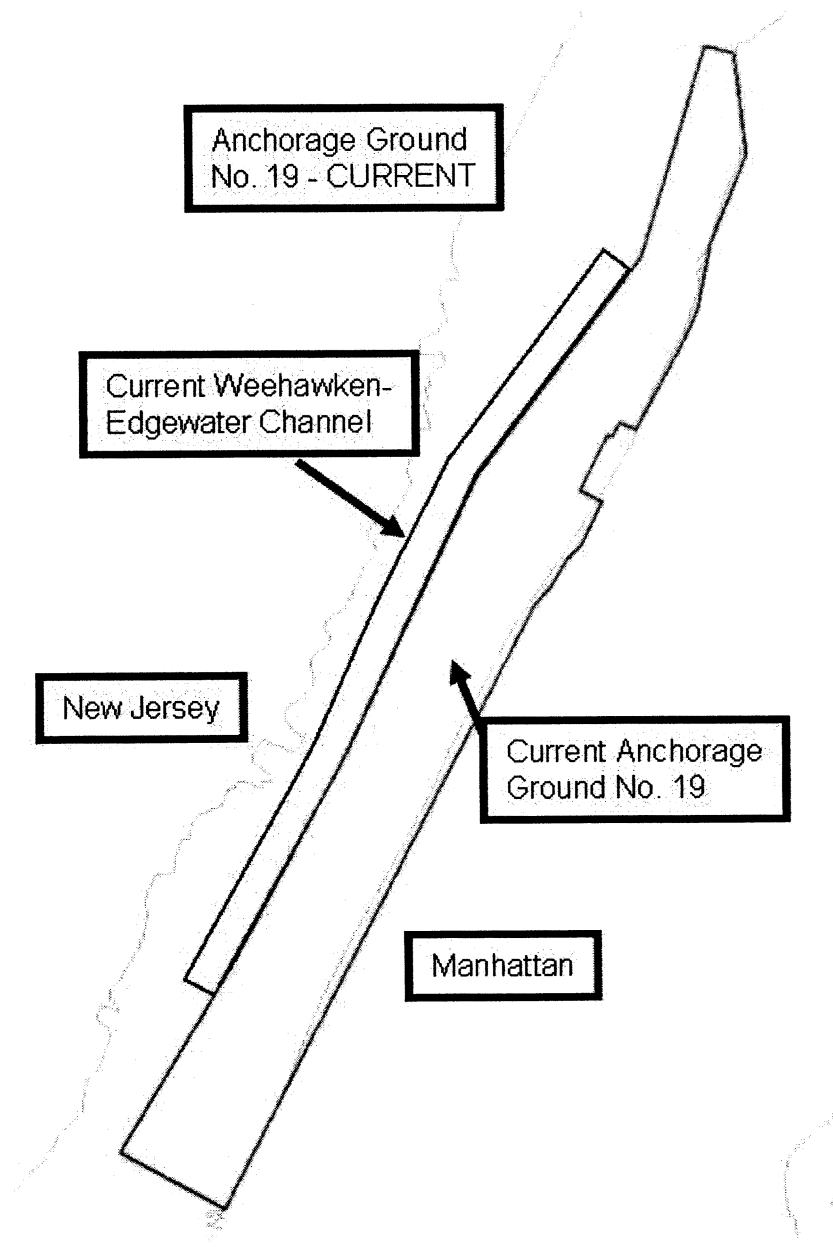
relocating the majority of the anchorage area to the western side of the Hudson River. The proposed change would allow deep draft vessels to transit the deeper water without having to transit through Anchorage Ground No. 19.

In that NPRM, it was stated that the ACOE would relocate the Weehawken-Edgewater Federal Channel to the east of its current location and the Coast Guard would relocate Anchorage Ground No. 19 to the west of its current location.

Since the publication of the NPRM, the ACOE has advised the Coast Guard that it does not intend to seek Congressional action to de-authorize the Weehawken-Edgewater Federal Channel. However, the ACOE also advised that it does not object to the Coast Guard establishing an Anchorage Ground in the existing Weehawken-Edgewater Federal Channel.

Consequently, to facilitate safe navigation of deep draft vessels the Coast Guard revises its proposal to disestablish Anchorage Ground No. 19 and establish two separate anchorage grounds, Anchorage Ground 19 West and Anchorage Ground No. 19 East. This would be accomplished by dividing Anchorage Ground No. 19 into an east and a west portion and relocating the majority of the anchorage area (new Anchorage Ground No. 19 West) from the eastern half of the Hudson River to the western half closer to the New Jersey shore (over the Weehawken-Edgewater Federal Channel). The following graphics display the current boundary of Anchorage Ground No. 19 and the proposed boundaries of Anchorage Grounds No. 19 East and No. 19 West:

**BILLING CODE 9110-04-P**



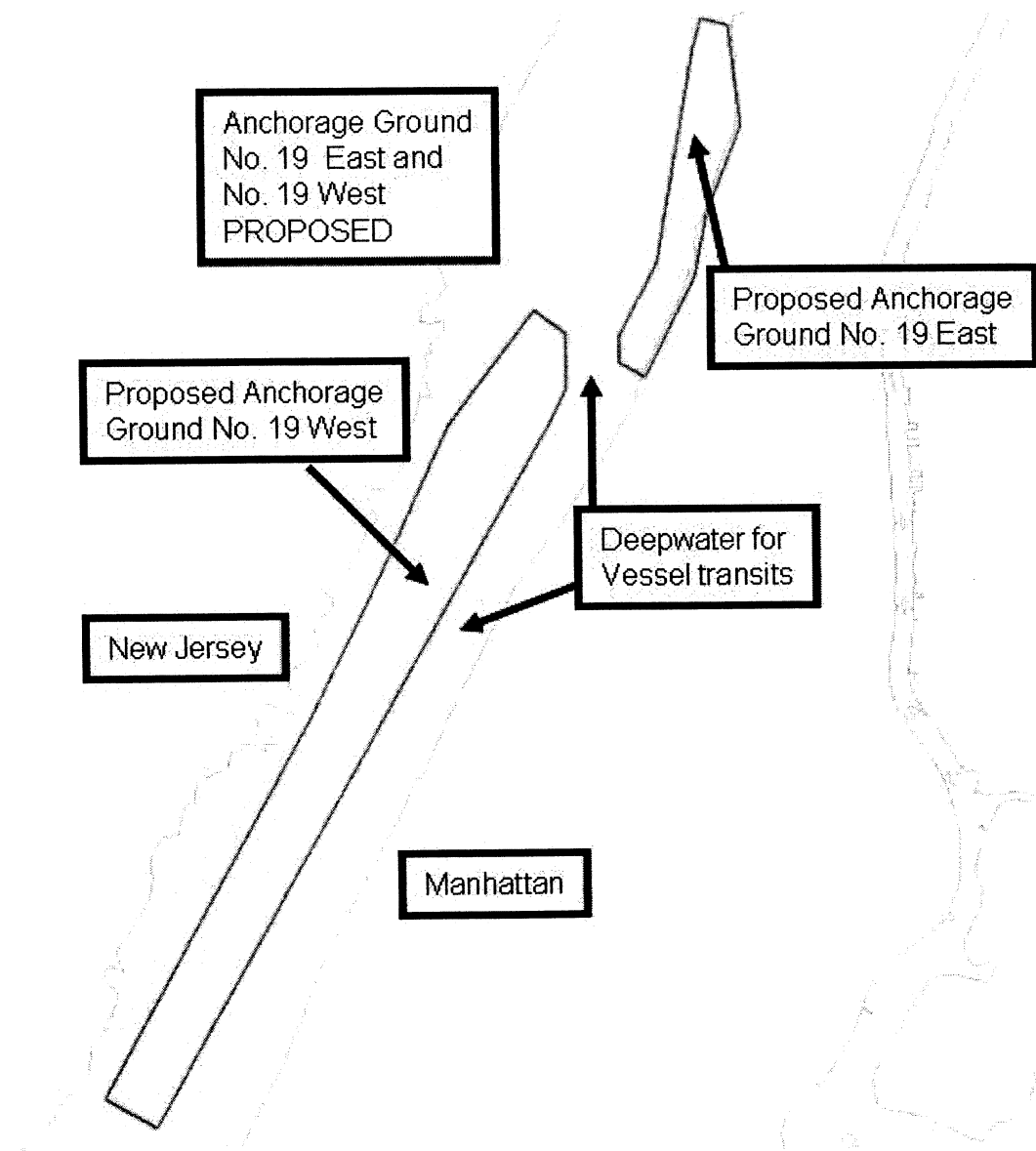
Anchorage Ground  
No. 19 - CURRENT

Current Weehawken-  
Edgewater Channel

New Jersey

Current Anchorage  
Ground No. 19

Manhattan

**BILLING CODE 9110-04-C**

Disestablishing Anchorage Ground No. 19 and establishing Anchorage Ground No. 19 East and Anchorage Ground No. 19 West would create a 400 yard wide area of deeper water between the newly established anchorage grounds. This proposed change would allow deep draft vessels to transit the deeper water without having to transit through an anchorage ground.

The Weehawken-Edgewater Federal Channel is authorized by Congress, and constructed and maintained by the ACOE. The ACOE has advised the Coast Guard that no portion of the Weehawken-Edgewater Federal Channel will be relocated in conjunction with the proposed reapportionment, relocation and establishment of Anchorage Ground No. 19 into two new anchorage grounds. The ACOE has

further advised that establishment of an anchorage ground in the Weehawken-Edgewater Federal Channel is not expected to impede navigation or a need to maintain channel depth because the Weehawken-Edgewater Federal Channel currently supports no deep draft vessel traffic.

According to the ACOE the Weehawken-Edgewater Federal Channel was originally intended to support commercial vessel operations on the New Jersey waterfront in the vicinity of the Channel. However, due to changes in shoreline usage from industrial to residential and recreational, the original intent of the Channel no longer exists. As a result there has not been a need to dredge the Weehawken-Edgewater Federal Channel segment to its authorized depth since it was last maintenance dredged in 1994.

The ACOE further advised that it does not appear likely that a need will arise in the foreseeable future to maintain the Channel for deep draft vessel traffic intending to access New Jersey waterfront and shore facilities. However, should a need recur in the future to accommodate deep draft traffic, the use of the areas as anchorage grounds would be re-evaluated.

In the interest of safe navigation and to minimize confusion, the ACOE and the USCG will request that the National Oceanic and Atmospheric Administration (NOAA) remove the Weehawken-Edgewater Federal Channel designation from NOAA charts. In addition, the Coast Guard will request chart corrections removing Anchorage Ground No. 19 boundary line designation and adding the boundary lines for the proposed Anchorage

Ground No. 19 West and Anchorage Ground No. 19 East.

### Discussion of Revised Proposed Rule

In this rule the Coast Guard proposes to concurrently disestablish Anchorage Ground No. 19 and establish Anchorage Ground No. 19 East and Anchorage Ground No. 19 West. The following are the proposed boundaries of the new Anchorage Grounds:

(1) Anchorage No. 19 East, bound by the following points: 40°49'42.6" N, 073°57'14.7" W; thence to 40°49'45.9" N, 073°57'22.0" W; thence to 40°49'52.0" N, 073°57'22.0" W; thence to 40°50'08.3" N, 073°57'10.8" W; thence to 40°50'55.4" N, 073°56'59.7" W; thence to 40°51'02.5" N, 073°56'57.4" W; thence to 40°51'00.8" N, 073°56'49.4" W; thence along the shoreline to the point of origin (NAD 83).

(2) Anchorage No. 19 West, would be bound by the following points: 40°46'56.3" N, 073°59'42.2" W; thence to 40°47'36.9" N, 073°59'11.7" W; thence to 40°49'31.3" N, 073°57'43.8" W; thence to 40°49'40.2" N, 073°57'37.6" W; thence to 40°49'52.4" N, 073°57'37.6" W; thence to 40°49'57.7" N, 073°57'47.3" W; thence to 40°49'32.2" N, 073°58'12.9" W; thence to 40°49'00.7" N, 073°58'33.1" W; thence to 40°48'28.7" N, 073°58'53.8" W; thence to 40°47'38.2" N, 073°59'31.2" W; thence to 40°47'02.7" N, 073°59'57.4" W; thence to the point of origin (NAD 83).

Currently, Anchorage Ground No. 19 covers approximately 1,352 acres. The proposed Anchorage Ground No. 19 West would cover approximately 714.5 acres, and Anchorage Ground No. 19 East would cover 185.5 acres. There would be a 400-yard-wide space separating the two Anchorage Grounds. The depth of the water in the 400 yard wide space separating the two proposed Anchorage Grounds is sufficient to allow deep draft vessels to safely navigate and transit.

In the NPRM, the Coast Guard proposed to remove the regulation (33 CFR 110.155(c)(5)(i)) requiring all vessels to obtain permission from the Captain of the Port (COTP) prior to anchoring. Based on the expanded review of this proposal the Coast Guard has decided to maintain this regulation. This would provide the COTP the ability to better promote safe navigation and ensure the viability of the Marine Transportation System during events that create unforeseen circumstances for vessel traffic in the area.

In the NPRM, the Coast Guard proposed to remove the regulation (33 CFR 110.155(c)(5)(ii)) requiring each vessel to report its position to the Captain of the Port immediately after anchoring. Based on the expanded

review of this proposal the Coast Guard has decided to maintain this regulation. This would provide the COTP the ability to better promote safe navigation and ensure the viability of the Marine Transportation System during events that create unforeseen circumstances for vessel traffic in the area.

The Coast Guard proposes to revise the regulation (33 CFR 110.155(c)(5)(iii)) that currently provides that no vessel may conduct lightering operations in the anchorage grounds without receiving permission from the Captain of the Port. The revision will clarify that when lightering is requested, the Captain of the Port must be notified at least four hours in advance of a vessel conducting lightering operations as required by 33 CFR 156.118.

The Coast Guard proposes to remove the regulation (33 CFR 110.155(c)(5)(iv)) requiring each vessel to move when the Captain of the Port notifies them the Anchorage is required by naval vessels. This regulation is no longer required as the closest naval facility is now located approximately 22 nautical miles away at Earle, NJ. Additionally, vessels may still be required to shift their position into, or within, the anchorage under the authority of 33 CFR 110.155(l)(12).

The Coast Guard proposes to revise the regulation (33 CFR 110.155(c)(5)(v)) requiring 48 hours advance notice to the Captain of the Port from vessels over 800 feet in length overall, or 40 feet in draft, requesting to use the anchorages. We propose to limit the use of the anchorage grounds to tugs and/or barges. Ships will not be authorized to anchor in these proposed anchorage grounds as they are already anchoring outside of the Federal Channel, off Yonkers, NY, approximately 5 to 10 nautical miles north of these proposed revised anchorage grounds.

The Coast Guard proposes to add a requirement that any vessel conducting lightering or bunkering operations shall display by day a red flag (Pub 102; International Code of Signals; signaling instructions) at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night the flag must be illuminated by spotlight. These signals shall be in addition to day signals, lights and whistle signals as required by rules 30 (33 U.S.C 2030) and 35 (33 U.S.C. 2035) of the Inland Navigation Rules when at anchor in a general anchorage area. Within an anchorage, fishing and navigation would be prohibited within 500 yards of an anchored vessel displaying a red flag by day or a red light by night.

The Coast Guard proposes to add a regulation (33 CFR 110.155(c)950(i)(D)) to specify that these anchorage grounds

are only authorized for use by tugs and/or barges.

### 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 proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This conclusion is based upon the fact that there are no fees, permits, or specialized requirements for the maritime industry to utilize these anchorage areas. The regulation is solely for the purpose of advancing safety of maritime commerce.

#### 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 vessels intending to transit through the proposed Anchorage Grounds 19 East and 19 West. Vessels intending to anchor in the current Anchorage Ground No. 19 would still be able to anchor in the revised Anchorage Ground No. 19 East or No. 19 West.

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 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 cause 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 that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves changing the size of anchorage grounds resulting in a reduction in the overall size of the 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 § 110.155 by revising paragraph (c)(5) to read as follows:

**§ 110.155 Port of New York.**

\* \* \* \* \*

(c) \* \* \*

(5) *Anchorage No. 19 East and 19 West.*

(i) Anchorage No. 19 East. All waters of the Hudson River bound by the following points: 40°49′42.6″ N, 073°57′14.7″ W; thence to 40°49′45.9″ N, 073°57′22.0″ W; thence to 40°49′52.0″ N, 073°57′22.0″ W; thence to 40°50′08.3″ N, 073°57′10.8″ W; thence to 40°50′55.4″ N, 073°56′59.7″ W; thence to 40°51′02.5″ N, 073°56′57.4″ W; thence to 40°51′00.8″ N, 073°56′49.4″ W; thence along the shoreline to the point of origin (NAD 83).

(ii) Anchorage No. 19 West. All waters of the Hudson River bound by the following points: 40°46′56.3″ N, 073°59′42.2″ W; thence to 40°47′36.9″ N, 073°59′11.7″ W; thence to 40°49′31.3″ N, 073°57′43.8″ W; thence to 40°49′40.2″ N, 073°57′37.6″ W; thence to 40°49′52.4″ N, 073°57′37.6″ W; thence to 40°49′57.7″ N, 073°57′47.3″ W; thence to 40°49′32.2″ N, 073°58′12.9″ W; thence to 40°49′00.7″ N, 073°58′33.1″ W; thence to 40°48′28.7″ N, 073°58′53.8″ W; thence to 40°47′38.2″ N,

073°59'31.2" W; thence to 40°47'02.7" N, 073°59'57.4" W; thence to the point of origin. (NAD 83).

(iii) The following regulations apply to 33 CFR 110.155(c)(5)(i) and (ii):

(A) No vessel may conduct lightering operations in these anchorage grounds without permission from the Captain of the Port. When lightering is authorized, the Captain of the Port New York must be notified at least four hours in advance of a vessel conducting lightering operations as required by § 156.118 of this title.

(B) Any vessel conducting lightering or bunkering operations shall display by day a red flag (Pub 102; International Code of Signals; signaling instructions) at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night the flag must be illuminated by spotlight. These signals shall be in addition to day signals, lights and whistle signals as required by rules 30 (33 U.S.C 2030) and 35 (33 U.S.C. 2035) of the Inland Navigation Rules when at anchor in a general anchorage area.

(C) Within an anchorage, fishing and navigation are prohibited within 500 yards of an anchored vessel displaying a red flag.

(D) These anchorage grounds are only authorized for use by tugs and/or barges.

(E) No vessel may occupy this anchorage ground for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

(F) No vessel may anchor in Anchorage No. 19 East or No. 19 West without permission from the Captain of the Port.

(G) Each vessel shall report its position within Anchorage No. 19 East or No. 19 West to the Captain of the Port immediately after anchoring.

(H) All coordinates referenced use datum: NAD 83.

\* \* \* \* \*

**Joseph L. Nimmich,**

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

[FR Doc. 2010-9850 Filed 4-27-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0249]

RIN 1625-AA00

#### Safety Zone; City of Chicago's July 4th Celebration Fireworks, Lake Michigan, Chicago, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone on Lake Michigan near Chicago, Illinois. This zone is intended to restrict vessels from a portion of Lake Michigan due to multiple firework displays. This proposed safety zone is necessary to protect the surrounding public and their vessels from the hazards associated with fireworks displays.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 28, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-0249 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 Petty Officer Adam Kraft, U.S. Coast Guard Sector Lake Michigan; telephone 414-747-7154, e-mail [Adam.D.Kraft@uscg.mil](mailto:Adam.D.Kraft@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-2010-0249), 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 <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>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2010-0249" in the "Keyword" box. Click "Search" 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>, click on the "read comments" box, which will then