

corrected to read “must submit written comments by”.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel, (Procedure and Administration).*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 110

[Docket No. USCG-2008-0155]

RIN 1625-AA01

#### **Anchorage Regulations; Port of New York**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to decrease the size of Romer Shoal Anchorage Ground in Lower New York Bay. This action is necessary to facilitate safe navigation in the area and to provide safe and secure anchorages for vessels transiting this area. This proposal is intended to increase the safety for life and property for the Port of New York, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of commercial vessels and commerce.

**DATES:** Comments and related material must reach the Coast Guard on or before September 15, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0155 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Online: <http://www.regulations.gov>.

(2) 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.

(3) Hand delivery: Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) Fax: 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call LCDR Michael McBrady,

Chief, Waterways Management Division, 718-354-2353. 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. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

##### *Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0155), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a 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. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or 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. We may change this proposed rule in view of them.

##### *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> at any time. Enter the docket number for this rulemaking (USCG-2008-0155) in the Search box, and click "Go >." You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays; or the Waterways Management Division, Coast Guard Sector New York, 212 Coast Guard Drive, room 210, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

##### *Privacy Act*

Anyone can search the electronic form of all 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

##### *Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one 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 Sandy Hook Pilots Association through the New York/New Jersey Harbor Safety Committee has requested the Coast Guard reduce the size of federal anchorage ground 27(ii) near Romer Shoal located between Ambrose and Swash Channels. The proposed eastern boundary of anchorage ground 27(ii) would move the eastern boundary about 2,860 yards to the west (inshore). The revised anchorage ground would be bound by the following points: 40°28'28.9" N, 073°56'46.0" W; thence to 40°29'48.1" N, 073°56'46.0" W; thence to 40°31'23.2" N, 074°00'51.0" W; thence to 40°32'11.5" N, 074°01'39.3" W; thence to 40°32'12.4" N, 074°02'04.6" W; thence to 40°31'28.5" N, 074°02'05.0" W; thence to 40°30'14.2" N, 074°00'05.0" W; thence to the point of origin (NAD 83).

##### **Discussion of Proposed Rule**

The Sandy Hook Pilots have observed foreign flag vessels, inbound via the New York Traffic Separation Scheme (TSS), proceeding through the Precautionary Area and the charted pilot area, sometimes at unsafe speeds of up to 18 knots to anchor in the eastern portion of this anchorage ground. The anchorage ground with charted water depths of between 39-63 feet, has obstructions which have the potential to create a grounding situation to certain types of vessels attempting to

anchor there. The Sandy Hook Pilots report that the majority of these foreign flag vessel masters lack the local knowledge required to move to this anchorage without pilot assist and language barriers make it difficult for the pilots to communicate the potential danger to their vessel. As stated, these ships are proceeding at greater speeds for longer periods of time since they are not embarking a pilot enroute this anchorage ground. This also creates hazardous conditions with other vessels slowing down to embark and disembark pilots in the adjacent offshore pilot area. Additionally, during periods of low visibility the presence of an anchored ship in this rarely used section of the anchorage may cause tight passing conditions between tugs and their tows and larger recreational vessels entering or departing the port. Moving the eastern boundary of this anchorage ground to the west will reduce vessel congestion in the area and enhance transit safety for vessels into and out of the Port of NY/NJ.

#### Regulatory Evaluation

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 finding is based on the fact that the proposed change conforms to the changing needs of commercial vessels and increasing commercial vessel traffic within the Port of NY/NJ.

#### 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 charted Pilot Area to anchor in the eastern end of anchorage ground 27(ii). This revised anchorage ground would not have a significant economic impact on a substantial number of small entities for the following reason: These vessels would still be able to anchor in the northeastern quadrant of the Precautionary Area as they have been for several years now while awaiting orders, dock space, or inshore anchorage for conducting lightering, bunkering, crew transfer, or other necessary vessel operations. 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 LCDR Michael McBrady at 718–354–2353. The Coast Guard will not retaliate against small entities that question or complain about this 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 Commandant Instruction M16475.ID which guides 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 not likely to have a significant effect on the human environment. A preliminary “Environmental Analysis Check List” supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. 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.

### Words of Issuance and Proposed Regulatory Text

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 (f)(2)(ii) to read as follows:

#### § 110.155 Port of New York.

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(ii) Romer Shoal. All waters bound by the following points: 40°28′28.9″ N, 073°56′46.0″ W; thence to 40°29′48.1″ N,

073°56′46.0″ W; thence to 40°31′23.2″ N, 074°00′51.0″ W; thence to 40°32′11.5″ N, 074°01′39.3″ W; thence to 40°32′12.4″ N, 074°02′04.6″ W; thence to 40°31′28.5″ N, 074°02′05.0″ W; thence to 40°30′14.2″ N, 074°00′05.0″ W; thence to the point of origin (NAD 83).

\* \* \* \* \*

Dated: May 7, 2008.

**Timothy V. Skuby,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. E8–16171 Filed 7–15–08; 8:45 am]

**BILLING CODE 4910–15-P**

### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

#### 36 CFR Parts 1190 and 1191

**RIN 3014–AA22**

#### Emergency Transportable Housing Advisory Committee

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of meeting.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) has established an advisory committee to make recommendations for possible revisions to the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) Accessibility Guidelines to include provisions for emergency transportable housing. This notice announces the dates and times of upcoming committee conference calls.

**DATES:** The conference calls are scheduled for July 24 and August 21, 2008. Both calls will begin at 10 a.m. and will conclude no later than 1 p.m. (Eastern time).

**ADDRESSES:** Individuals can participate in the conference calls by dialing a teleconference number which will be posted on the Access Board’s Web site at <http://www.access-board.gov/eth/>.

**FOR FURTHER INFORMATION CONTACT:** Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0020 (Voice); (202) 272–0082 (TTY). These are not toll-free numbers. E-mail address: [mazz@access-board.gov](mailto:mazz@access-board.gov).

**SUPPLEMENTARY INFORMATION:** On August 23, 2007, the Architectural and Transportation Barriers Compliance Board (Access Board) established an

advisory committee to make recommendations for possible revisions to the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) Accessibility Guidelines to include provisions for emergency transportable housing (72 FR 48251; August 23, 2007).

The committee will hold conference calls on July 24 and August 21, 2008 (a call that was previously scheduled for July 28 has been cancelled) to discuss a variety of outstanding issues yet to be resolved. Information about the committee, and the agenda, instructions (including information on requesting captioning), and dial in telephone numbers for the conference calls are available at <http://www.access-board.gov/eth/>. The conference calls are open to the public and interested persons can dial in and communicate their views during a public comment period scheduled during each conference call. Participants may call in from any location of their choosing.

To enable individuals who are Deaf or hard-of-hearing to participate, Federal Relay Conference Captioning (RCC) services will be provided on request. Requests for RCC should be made no later than three (3) business days in advance of each scheduled teleconference by contacting Marsha Mazz. Persons wishing to provide handouts or other written information to the committee are requested to provide them in an electronic format to Marsha Mazz preferably by e-mail so that alternate formats such as large print can be distributed to committee members.

**Lawrence W. Roffee,**

*Executive Director.*

[FR Doc. E8–16312 Filed 7–15–08; 8:45 am]

**BILLING CODE 8150–01-P**

### LIBRARY OF CONGRESS

#### Copyright Office

#### 37 CFR Part 201 and 255

[Docket No. RM 2000–7]

#### Compulsory License for Making and Distributing Phonorecords, Including Digital Phonorecord Deliveries

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Copyright Office of the Library of Congress is proposing to amend its regulations to clarify the scope and application of the Section 115 compulsory license to make and distribute phonorecords of a musical