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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD01-97-086]

RIN 2115-AA98

Anchorage Grounds: Hudson River, Hyde Park, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing Federal Anchorage 19-A in the Hudson River near Hyde Park, NY. This action is necessary to provide an anchorage ground on the Hudson River for vessels awaiting favorable tides and/or daylight for passage to facilities north of New York City. This action is intended to increase safety for vessels transiting the Hudson River by providing an anchorage ground away from congested traffic lanes used in New York Harbor.

DATES: This final rule is effective August 19, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354-4193.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 10, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Anchorage Grounds: Hudson River, Hyde Park, NY in the **Federal Register** (63 FR 37297). The Coast Guard received two letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

On March 31, 1999, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) entitled Anchorage Grounds: Hudson River, Hyde Park, NY in the **Federal Register** (64 FR 15322). The Coast Guard received no letters commenting on the supplemental proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Hudson River Pilots Association requested that the Coast Guard establish a federal anchorage ground in the Hudson River near Hyde Park, New York. The closest anchorage to the requested anchorage is down river to anchorage number 17, the northern boundary of which lies between the Yonkers municipal pier and the pilot station just to the north. The area that the Pilots Association has suggested for consideration is bound by the following coordinates:

NW corner: 41° 48' 35" N 073° 57' 00" W.

NE corner: 41° 48' 35" N 073° 56' 44" W.

SE corner: 41° 47' 32" N 073° 56' 50" W.

SW corner: 41° 47' 32" N 073° 57' 10" W. (NAD 1983)

The Coast Guard received two letters commenting on the NPRM. Comments received prompted the Coast Guard to reevaluate the proposal.

One comment recommended that a minimum size of 65 feet in length be established for vessels authorized to use the anchorage because the smaller vessels would be less visible at anchor, even if they displayed the required lights or day shapes, and pose a potential hazard to mariners. The comment noted that the entire anchorage area, including the area outside the designated navigation channel, is routinely transited by vessels of various sizes and that the Special Anchorage Area at Hyde Park, NY, (33 CFR 110.60(p-3)) is available for use by vessels less than 65 feet in length. This Special Anchorage Area at Hyde Park, NY that the comment referred to was disestablished on June 1, 1998 (63 FR 23662). However, in response to these safety concerns, the Coast Guard re-evaluated the NPRM. Upon further analysis, the Coast Guard agreed that safety concerns warranted a minimum vessel length restriction and a SNPRM including this restriction was published. The safety concerns stem from the high number of vessels that transit the area of Anchorage 19-A and from background lighting on shore that will interfere with smaller vessels' anchorage lights.

In the SNPRM, the Coast Guard proposed an additional regulation restricting vessels less than 20 meters in length from using this anchorage ground without prior approval from the Captain of the Port, New York. The Coast Guard believes this restriction is reasonable given the noted safety concerns and that there are over 75 transient berths at 8 marinas within approximately 15

nautical miles of this anchorage ground for use by vessels less than 20 meters in length. Additionally, the Coast Guard is aware that transient vessels anchor to the east of Esopus Island in order to use the island as a breakwater to block the wake action caused by commercial shipping transiting the Hudson River. This protected area may be easily used by vessels less than 20 meters in length as an alternative to Anchorage 19-A because Esopus Island is approximately 500 yards north of Anchorage 19-A.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the supplemental proposed rulemaking. No changes were made to the supplemental proposed rule.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the following reasons: Due to icing of the river in winter months, the anchorage will be seasonal in nature, recreational traffic can still traverse the anchorage when necessary, there are over 75 transient berths at 8 marinas within approximately 15 nautical miles of this anchorage ground for vessels less than 20 meters in length to tie up in, and the anchorage ground permits unobstructed navigation in the western 350 yards of the Hudson River.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include 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.

For the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not

have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Public Law 104-4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, \$100 million or more in any one year, the UMRA analysis is required. This final rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under paragraph 2-1, paragraph 34(f), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 110 as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).;

2. In § 110.155, add paragraph (c)(6) to read as follows:

§ 110.155 Port of New York.

* * * * *

(c) * * *

(6) Anchorage No. 19-A. An area located west of Hyde Park enclosed by the coordinates starting at 41°48'35"N 073°57'00"W; to 41°48'35"N 073°56'44"W; to 41°47'32"N 073°56'50"W; to 41°47'32"N 073°57'10"W; thence back to 41°48'35"N 073°57'00"W (NAD 1983).

(i) No vessel may anchor in Anchorage 19-A from December 16 to the last day of February without permission from the Captain of the Port, New York.

(ii) No vessel less than 20 meters in length may anchor in Anchorage 19-A without prior approval of the Captain of the Port, New York.

* * * * *

Dated: June 30, 1999.

R.M. Larrabee,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07-99-038]

RIN 2115-AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AIWW), Beaufort, SC

AGENCY: Coast Guard, DOT.

ACTION: Interim rule; request for comments.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the Lady's Island Bridge at Beaufort, SC. This rule changes the operating requirements for a seasonal operating schedule to a single annual schedule that coincides with daily traffic volume. The rule permits the draw to remain closed Monday through Friday during morning and afternoon rush hours, from 7:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., and to open on the hour and half hour between rush hours.

DATES: This rule becomes effective August 23, 1999. Comments must be received on or before November 17, 1999.

ADDRESSES: Comments may be mailed to Commander (oan), Seventh Coast Guard District, Bridge Section, Brickell Plaza

Federal Building, 909 S.E. First Avenue, Miami, Florida 33131-3050, or may be delivered to Room 406 at the same address between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 536-5621.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Pruitt, Project Manager, Bridge Management Specialist, Seventh Coast Guard District, Bridge Section at (843) 747-5335.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify the rulemaking [CGD07-99-038] and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period and may revise this rule before making it final.

Background and Purpose

The Lady's Island Bridge (also known as the Woods Memorial Bridge) over the AIWW, mile 536.0 at Beaufort, has a vertical clearance of 30 feet at mean high water and 37 feet at mean low water. Presently, the draw opens on signal, except that from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Saturday the draw need open only on the hour. During the months of April, May, June, September, October, and November, Monday through Friday from 9 a.m. to 4 p.m., the draw need open only on the hour, twenty minutes after the hour and forty minutes after the hour.

The City of Beaufort has requested that the Coast Guard change the existing regulations by eliminating openings during morning and evening rush hours, and limiting the openings to twice an hour between rush hours. The operating regulations for this bridge have not been changed since 1986 and vehicular traffic has increased. The new schedule will allow individuals crossing the swingbridge by vehicle to plan their transit times across this swingbridge to avoid delays from bridge openings. The Commander, Seventh Coast Guard