



This document is scheduled to be published in the Federal Register on 05/23/2012 and available online at <http://federalregister.gov/a/2012-12456>, and on FDsys.gov

9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG-2011-0348]

RIN 1625-AA01

Anchorage; Change to Cottonwood Island Anchorage, Columbia River, Oregon and Washington

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is revising its proposed rule to increase the availability of designated anchorages on the Columbia River. In response to comments on its prior proposal, the Coast Guard proposes a smaller extension of the Cottonwood Island Anchorage than that originally proposed, and the creation of a new anchorage area upriver from the center of the City of Prescott, OR.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2011-0348 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 ENS Ian McPhillips, Waterways Management Branch, Coast Guard Marine Safety Unit Portland; telephone 503-240-9319, e-mail Ian.P.McPhillips@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-2011-0348), 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, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2011-0348" 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>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2011-0348" 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.

Basis and Purpose

The Captain of the Port Columbia River believes that the size of the Cottonwood Island Anchorage is insufficient as currently established based on both the current demand for anchorage grounds and the forecasted growth of vessel traffic on the Columbia River. Sufficient anchorage area, both in number and size, is especially important in this area because of the unpredictable hazardous conditions of the Columbia River Bar, which at times prevents vessels from safely navigating downriver. This rule would increase the size of the current Cottonwood Island Anchorage and create a new anchorage on the Columbia River.

Discussion of Comments and Changes

In June of 2011 the Coast Guard published a Notice of Proposed Rule Making (NPRM) that proposed the expansion of the Cottonwood Island Anchorage to river mile 72-26. This NPRM received a total of eleven comments. Nine comments were made in support of the new change to the Cottonwood Island Anchorage area. Two comments, made by a consortium of local land owners, expressed concerns that vessels anchoring in the parts of the proposed anchorage near residential areas ashore could negatively impact air quality, noise levels, and property values. The distance between the shore-side boundary of the anchorage and the shore in this residential area is less than 70 feet.

To address the stated issues the Coast Guard proposes a smaller extension of the Cottonwood Island Anchorage than that originally proposed and the creation of a new anchorage area upriver from the center of the City of Prescott, OR. The resulting anchorage grounds would not include the waters off of the residential areas that prompted the two comments by land owners.

This revised proposed rule would extend the east side of the existing Cottonwood Island Anchorage to river mile 71-08. The newly created Prescott Anchorage would be located between the Oregon side of the Columbia River channel and the Oregon shore. It would extend approximately from river mile 72-05 to river mile 72-26.

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 the modification of the existing anchorage and establishment of a new anchorage area should not have any significant costs or impacts on maritime activities associated with it.

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 because the modification of an existing anchorage and the creation of a new anchorage does not have any significant costs or impacts on maritime activities associated with it.

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 (Public Law 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 the Waterways Management Branch, Coast Guard Marine Safety Unit Portland, Oregon, telephone 503-240-9319. 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 affect a taking of private

property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that

are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.1D, 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. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. This proposed rule involves increasing the size of an anchorage and creating a new anchorage area, which is categorically excluded, under Figure 2-1, 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(g); Department of Homeland Security Delegation No. 0170.1.

2. Revise § 110.228(a)(10) and (11) to read as follows:

§ 110.228 Columbia River, Oregon and Washington

(a) * * *

(10) Cottonwood Island Anchorage. The waters of the Columbia River bounded by a line connecting the following points:

46°05'56.88" N	122°56'53.19" W
46°05'14.06" N	122°54'45.71" W
46°04'57.12" N	122°54'12.41" W
46°04'37.55" N	122°53'45.80" W
46°04'13.72" N	122°53'23.66" W
46°03'54.94" N	122°53'11.81" W
46°03'34.96" N	122°53'03.17" W
46°03'11.61" N	122°52'56.29" W
46°03'10.94" N	122°53'10.55" W
46°03'32.06" N	122°53'19.69" W
46°03'50.84" N	122°53'27.81" W
46°04'08.10" N	122°53'38.70" W
46°04'29.41" N	122°53'58.17" W
46°04'49.89" N	122°54'21.57" W
46°05'06.95" N	122°54'50.65" W
46°05'49.77" N	122°56'58.12" W

(11) Prescott Anchorage. The waters of the Columbia River bounded by a line connecting the following points:

46°02'47.01" N	122°52'53.90" W
46°02'26.32" N	122°52'51.89" W
46°02'25.92" N	122°53'00.38" W
46°02'46.54" N	122°53'03.87" W

* * * * *

Dated: May 18, 2012

A. T. Ewalt

Captain, U.S. Coast Guard
Acting Commander, Thirteenth Coast Guard
District

[FR Doc. 2012-12456 Filed 05/22/2012 at 8:45 am; Publication Date: 05/23/2012]