



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG-2014-0142]

RIN 1625-AA01

Anchorage Regulations: Special Anchorage Areas, Marina del Rey Harbor, California

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On May 28, 2014, the Coast Guard published a notice of proposed rulemaking (NPRM) to disestablish the special anchorage in Marina del Rey Harbor, California. Based on the comments received in response to that NPRM, we are now proposing to amend the shape and reduce the size of the special anchorage in Marina del Rey Harbor, California. Additionally, we propose to clarify the language in the note section of the existing regulation.

This SNPRM would leave sufficient navigable water on adjacent sides of the anchorage for vessel traffic, effectively removing this special anchorage area from a location where it could endanger vessel traffic.

DATES: Comments and related material must be received by the

Coast Guard on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2014-0142 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Van Vu, Waterways Management Division, U.S. Coast Guard District 11, telephone (510) 437-2978, e-mail van.h.vu@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NOAA	National Oceanic and Atmospheric Administration
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The legal basis for the proposed rule is: 33 U.S.C. 471, 1221, through 1236, and 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorized the Coast Guard to define anchorage areas. A special

anchorage area is a designated water area within which vessels less than 65 feet (20 meters) in length are not required to: Sound signals required by Rule 35 of the Inland Navigation Rules (33 CFR 83.35); or exhibit the white anchor lights or shapes required by Rule 30 of the Inland Navigation Rules (33 CFR 83.30). By regulation, special anchorage areas should be well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels (33 CFR 109.10).

This supplemental notice of proposed rulemaking (SNPRM) is intended to reduce the size of the anchorage. The amended anchorage will leave sufficient navigable water on adjacent sides of the anchorage for vessel traffic, effectively removing the anchorage from a location where it could endanger vessel traffic. The proposed rule would better accommodate transiting vessels and create a clearly defined area for anchored vessels, thus improving navigation safety.

A. Regulatory History and Information

In 1967, the Coast Guard placed the regulation for a special anchorage area in the main channel of Marina del Rey in 33 CFR, as anchorage regulations were transferred from the Army Corp of Engineers to the Coast Guard (32 FR 17726, 17737, Dec. 12, 1967). The specific regulations and boundaries for this

special anchorage area are defined by coordinates in 33 CFR 110.111.

On May 28, 2014, we published a notice of proposed rulemaking (NPRM) entitled Anchorage Regulations: Special Anchorage Area, Marina del Rey, California, in the **Federal Register** (79 FR 30509) to disestablish the anchorage. The purpose was to align the regulations with the current and future configuration of the main channel and docking facilities. On November 4, 2014, we published a notice for a public meeting (79 FR 65361). The meeting was held in Marina del Rey, CA on November 20, 2014. At the public meeting, we heard from six speakers. For greater public participation, all comments submitted to the public docket as late as January 5, 2015 were considered. In addition to the six speakers at the public meeting, we received comments in 44 written submissions to the docket. Based on all comments received we have prepared this supplemental notice of proposed rulemaking (SNPRM) which proposes to maintain the anchorage but amend the boundaries and reduce the size of the anchorage.

B. Discussion of Comments on NPRM and Changes

The Coast Guard received 44 written submissions to the docket and heard from six speakers at the public meeting regarding the NRPM to disestablish the anchorage. All written

submissions thru the portal, the recorded transcript of the public meeting and all other documents pertaining to this topic are available in the public docket for this rulemaking, where indicated under ADDRESSES.

Below, we have summarized the received comments and our response to these comments.

The Coast Guard received 31 comments to keep the anchorage as is or to establish an alternate anchorage at another location in the harbor. The Coast Guard understands the commenters' concern of the need for a safe refuge for transiting recreational vessels during storms or other dangerous conditions. Thus, we are proposing a smaller anchorage as an option for mariners.

The Coast Guard received eight comments for a public hearing and additional time for public comment. We held a public meeting in Marina Del Rey on November 20, 2014 and considered comments received until January 5, 2015.

The Coast Guard received nine comments in support of removing the anchorage. Some of those comments indicated that vessels anchoring in the existing anchorage in the main channel create an unsafe situation. Other comments reported mariners rarely use the anchorage and there is little knowledge of its existence. The special anchorage is clearly marked on the chart with reference to the applicable regulation. A copy of the

National Oceanic and Atmospheric Administration (NOAA) Office of Coast Survey Chart number 18744 has been posted to the docket to illustrate this point. The Coast Guard has determined the current special anchorage area encompassing the entire channel width at the north end of the harbor could cause an unsafe situation. In this SNPRM, the Coast Guard is proposing a smaller special anchorage area which will allow vessel traffic to pass safely on all sides.

The Coast Guard received two comments and questions at the public meeting in November concerning proposed projects located outside of the anchorage area. The Coast Guard indicated these comments addressed areas and subjects outside the anchorage that would not impact the existing anchorage and were beyond the scope of the proposed rulemaking.

III. Discussion of SNPRM Proposed Rule

This proposed rule would decrease the size of the current anchorage in Marina del Rey harbor. Currently, it is a trapezoid-shaped anchorage of approximately 0.48 square nautical miles. The Coast Guard proposes to change the shape of the anchorage from a trapezoid to a rectangle and decrease its size from approximately 0.48 to 0.11 square nautical miles. The revised anchorage would be moved to the middle of the channel across from Burton Chace Park, with its northern boundary line

approximately from the midpoint of basin G extending south to the midpoint of Basin H. The anchorage dimensions would be 1154 feet in length and 365 feet in width. The distance from the closest shore side dock to the anchorage boundary would be approximately 243 feet. The anchorage boundaries are described, using precise coordinates, in the proposed regulatory text at the end of this document.

This proposed rule would also amend the note section for 33 CFR 110.111 to clarify the purpose of the anchorage, as well as the types of vessels eligible to use the anchorage. It would also reflect that the Marina del Rey Harbor Master, Los Angeles County, prescribes local regulations for mooring and boating activities in this harbor, rather than the Director, Department of Small Craft Harbors, Los Angeles County, which is obsolete. This updated note will clarify the role of the Marina del Rey Harbor Master in the administration of the special anchorage.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and

Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this proposed rule would not be significant to the maritime and local community. The existing anchorage is currently used only in emergency circumstances, and this proposed change will not significantly reduce the number of vessels using the anchorage.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 rule would not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which might be small

entities: the owners or operator of recreational vessels that have a need to anchor in Marina del Rey special anchorage.

This proposed rule would not have a significant impact on a substantial number of small entities. Although this rule would decrease the size of the special anchorage area, the proposed dimensions provide sufficient space for vessels to anchor when authorized by the Harbor Master, without presenting a hazard to vessels transiting in the channel.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

Also, 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.

E. 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 (adjusted for inflation) 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 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 that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the amendment of a currently-existing anchorage area. Normally such actions are

categorically excluded from further review under paragraph 34(f) of Figure 2-1 of the Commandant Instruction M16475.1D. A preliminary environmental analysis checklist and a Categorical Exclusion Determination are 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 rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. As demonstrated by this SNPRM, your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal erulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instruction.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this SNPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We plan to hold a public meeting to receive oral comments on this SNPRM and will announce the date, time, and location in a separate document published in the *Federal Register*. If you signed up for docket email alerts mentioned in the paragraph above, you will receive an email notice when the public meeting notice is published and placed in the docket.

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, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 110.111 to read as follows:

§ 110.111 Marina del Rey Harbor, Calif.

An area in the main channel encompassed within the following described boundaries: Beginning at the northeasterly corner in position latitude 33°58'41.6" N, longitude 118°26'50.8" W; thence southerly to latitude 33°58'30.2" N, longitude 118°26'50.8" W; thence westerly to latitude 33°58'30.2" N, longitude 118°26'55.1" W; thence northerly to latitude 33°58'41.6" N, longitude 118°26'55.1" W; thence easterly to the point of origin. All coordinates referenced North American Datum 1983.

Note to § 110.111: The Marina Del Rey Harbor Master, Los Angeles County prescribes local regulations for mooring and boating activities in this area.

Dated: February 8, 2016.

J. A. Servidio,

Rear Admiral, U.S. Coast Guard,

Commander, Eleventh Coast Guard District.

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