



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2017-1125]

RIN 1625-AA01

Anchorage Grounds; Saint Lawrence Seaway, Cape Vincent, New York

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing, at the request of the Saint Lawrence Seaway Development Corporation, two separate anchorage grounds, Carleton Island Anchorage and Tibbetts Point Anchorage, near Cape Vincent, New York. The Federal Anchorage Ground designations will enable a pilot to disembark a safely anchored vessel which will help reduce pilot fatigue, increase pilot availability, and reduce costs incurred by vessels transiting the Seaway.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-1125 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Jason Radcliffe, Ninth District, Waterways Operations, U.S. Coast Guard; telephone 216-902-6060, email jason.a.radcliffe2@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AIS	Automatic identification system
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is establishing two anchorage grounds, one in the vicinity of Carleton Island, New York, and the second near Tibbetts Point, New York. Each area has historically been used as an anchorage and the Saint Lawrence Seaway Development Corporation, at the request of its waterway users, has requested each area to be officially designated as Federal Anchorage Grounds.

Without this designation, pilots who anchor a ship in the respective areas are unable to disembark during sustained delay periods which hinder compliance with rest requirements and complicate pilot availability and logistics for other vessels. On February 2, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Saint Lawrence Seaway Anchorages (83 FR 4882). The NPRM discussed the need for the rule and invited the public to comment on the proposed regulatory action related to this Anchorage Grounds establishment. During the comment period that ended May 3, 2018, we received two comments. One comment was not relevant to the proposed rule and the other comment expressed support of the proposal.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

The Coast Guard recognizes the need to establish two anchorage grounds, one in the vicinity of Carleton Island, New York and the second near Tibbetts Point, New York. Each area has historically been used as an anchorage and the Saint Lawrence Seaway Development Corporation, at the request of its waterway users, has requested each area to be officially designated as Federal Anchorage Grounds. Without this designation, pilots who anchor a ship in the respective areas are unable to disembark during sustained delay periods which hinder compliance with rest requirements and complicate pilot availability and logistics for other vessels.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received two comments on our NPRM published February 2, 2018. We made no changes to the regulatory text based on these comments, but we did clarify that our reference to the Captain of the Port was to the Captain of the Port Buffalo.

This rule establishes two new anchorage areas to be known as Carleton Island Anchorage and Tibbetts Point Anchorage.

The Carleton Island Anchorage will be located just northeast and adjacent to Carleton Island and Millen Bay. The boundaries of Carleton Island Anchorage are presented in the regulatory text at the end of this document. The anchorage will be approximately .75 square miles. Carleton Island Anchorage is primarily intended for use by up-bound inland or ocean going bulk freight and tank ships, towing vessels and barges

that need to anchor and wait for the availability of a Lake Ontario Pilot. Under this rule no anchors would be allowed to be placed in the channel and no portion of the hull or rigging will be allowed to extend outside the limits of the anchorage area.

The Tibbetts Point Anchorage will be located just west and adjacent to Tibbetts Point and Fuller Bay. The boundaries of Tibbett's Point Anchorage are presented in the regulatory text at the end of this document. The anchorage will be approximately 1.5 square miles. Tibbett's Point Anchorage is primarily intended for use by down-bound inland or ocean going bulk freight and tank ships, towing vessels and barges that need to anchor and wait for the availability of a River Pilot. Under this rule no anchors will be allowed to be placed in the channel and no portion of the hull or rigging will be allowed to extend outside the limits of the anchorage area.

V. 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 and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the location and size of the anchorage grounds, as well as the historical automatic identification system (AIS) data. The impacts on routine navigation are expected to be minimal because the anchorage grounds are located outside the navigational channel. When not occupied, vessels would be able to maneuver in, around and through the anchorage.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the anchorage grounds may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). 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.

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 Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

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 rule will 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 Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined 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 rule involves the establishment of permanent anchorages near Carleton Island and Tibbetts Point, New York. It is categorically excluded from further review under paragraph L59(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 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. Add § 110.209 to read as follows:

§ 110.209 Saint Lawrence Seaway Anchorages, New York.

(a) Carleton Island Anchorage; Saint Lawrence River, Cape Vincent, New York--

(1) Carleton Island Anchorage Area. The waters bounded by a line connecting the following points, beginning at 44°11'57.11" N, 076°14'04.62" W; thence to 44°11'21.80" N, 076°14'05.77" W; thence to 44°11'34.07" N, 076°15'49.57" W; 44°11'35.35" N, 076°16'47.50" W; 44°11'43.49" N, 076°16'48.00" W; 44°11'57.11" N, 076°14'04.62" W and back to the beginning point. These coordinates are based on WGS 84.

(2) Tibbett's Island Anchorage Area. The waters bounded by a line connecting the following points, beginning at 44°05'20.27" N, 076°23'25.78" W; thence to 44°05'21.85" N, 076°22'40.97" W; thence to 44°04'34.08" N, 076°23'09.98" W; 44°04'07.72" N, 076°23'33.76" W; 44°04'32.78" N, 076°24'43.80" W; 44°05'44.37" N, 076°23'56.29" W; 44°05'20.27" N, 076°23'25.78" W and back to the beginning point. These coordinates are based on WGS 84.

(b) The regulations. (1) Anchors must not be placed in the Saint Lawrence Seaway shipping channel. No portion of the hull or rigging may extend outside the limits of the anchorage area.

(2) No vessel may occupy any general anchorage described in paragraph (a) of this section for a period longer than 10 days unless approval is obtained from the Captain of the Port Buffalo (COTP) for that purpose.

(3) The COTP, or authorized representative, may require vessels to depart from the Anchorages described in paragraph (a) of this section before the expiration of the authorized or maximum stay. The COTP, or authorized representative, will provide at least 12-hour notice to a vessel required to depart the anchorages.

Dated: June 25, 2018.

J. M. Nunan,
Rear Admiral, U.S. Coast Guard,
Commander, Ninth Coast Guard District.

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