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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD05–03–195]

RIN 1625–AA01

Anchorage Grounds; Delaware Bay and River

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations that govern Anchorage 5, southeast of Pea Patch Island, due to U.S. Army Corp of Engineers dredging operations in the anchorage. This regulation will help ensure the safety of vessels anchoring in Anchorage 5 while dredging operations are ongoing. Mariners must receive approval from the Captain of the Port Philadelphia before using the anchorage and

DATES: This rule is effective from December 9, 2003, until December 31, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–03–195 and are available for inspection or copying at Coast Guard Fifth District, 431 Crawford Street, Portsmouth, Virginia, 23704, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Roger Smith, Coast Guard Fifth District Marine Safety Division, at (757) 398–6389.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and

(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. On November 28, 2003, a contractor for the Army Corps of Engineers began conducting dredging operations, which are potentially hazardous to mariners in New Castle Range Ship Channel and in Anchorage 5 southeast of Pea Patch Island. Publishing an NPRM, allowing for a comment period, and/or waiting 30 days after publication before making this regulation effective is impracticable and contrary to public interest. Immediate action is needed to protect mariners against the potential hazards associated with the dredging operation. Advance notification will be made to affected mariners via marine information broadcasts.

Background and Purpose

The U.S. Army Corps of Engineers (USACE) conducts dredging operations on the Delaware River in the vicinity of New Castle Range Ship Channel to maintain the 46-foot project depth.

To reduce the hazards associated with dredging the channel, mariners must receive approval from the Captain of the Port Philadelphia before using Anchorage 5 while the operations are ongoing.

Discussion of Temporary Final Rule

Currently in paragraph (b)(2) of 33 CFR 110.157, vessels are allowed to anchor for up to 48 hours in the anchorage grounds listed in § 110.157(a), which includes Anchorage 5. However, because of underwater dredge piping in Anchorage 5 southeast of Pea Patch Island, the Coast Guard is temporarily adding paragraph (b)(12) in 33 CFR 110.157 to protect mariners from encountering hazards within Anchorage 5. All vessels desiring to use Anchorage 5 must obtain permission from the Captain of the Port 24 hours prior to anchoring. The Coast Guard expects that vessels normally permitted to anchor in Anchorage 5 will make arrangements to anchor elsewhere during the dredge operations, as there are 15 other anchorages in the local area.

Regulatory Evaluation

This temporary 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. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS) because we expect the economic impact of this rule to be so minimal. There are fifteen other anchorages in the local area for use by mariners. Also, New Castle Range is not near any critical infrastructure or marine terminals and Anchorage 5 is rarely used by the public or by the river pilots.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this 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.

Therefore, the Coast Guard certifies under section 605(b) of the regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the pilots association, the supply boat providers, and the tugboat operators. However, there are fifteen other anchorages in the local area for use by these small businesses. This temporary regulation will not have a significant impact on a substantial number of entities for the following reasons: Anchorage 5 is rarely used, as other anchorages are more convenient to these businesses. In addition, the New Castle Range is not near any critical infrastructure or marine terminals.

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 rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of federal employees who enforce or otherwise determine compliance with federal regulations to