

comments in the preamble to the final rule or to any subsequent notices that are published as a result of the comments. Do not present any material you consider confidential or inappropriate for disclosure.

#### Regulatory Analyses and Notices

##### *Does the Paperwork Reduction Act Apply to This Proposed Rule?*

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply.

##### *Does the Regulatory Flexibility Act (RFA) Apply to This Proposed Rule?*

As required by the RFA, we certify that implementation of this proposed regulation would not have a significant economic impact on a substantial number of small business entities. We expect no negative impact on small entities and propose no new reporting, recordkeeping, or other administrative requirements. Accordingly, the RFA does not require a regulatory flexibility analysis.

##### *Does Executive Order 12866 Define This NPRM as a Significant Regulatory Action?*

This proposed rule fits none of the criteria of significant regulatory actions, as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

#### Drafting Information

The principal author of this document is Jennifer Berry, Regulations and Procedures Division (Roanoke), Alcohol and Tobacco Tax and Trade Bureau.

#### List of Subjects

##### *27 CFR Part 4*

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wines.

##### *27 CFR Part 24*

Administrative practice and procedure, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavoring, Surety bonds, Vinegar, Warehouses, Wine.

#### Authority and Issuance

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR part 4 as follows:

#### PART 4—LABELING AND ADVERTISING OF WINE

1. The authority citation for 27 CFR part 4 continues to read as follows:

**Authority:** 27 U.S.C. 205, unless otherwise noted.

2. Section 4.21 is amended by removing the phrase “13 percent” where it appears in the proviso in paragraph (f)(1)(i) and adding in its place the phrase “14 percent”.

#### PART 24—WINE

3. The authority citation for part 24 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

4. Section 24.202 is amended by revising the last sentence to read as follows:

##### **§ 24.202 Dried fruit.**

\* \* \* After complete fermentation or complete fermentation and sweetening, the finished product may not have a total solids content that exceeds 35 degrees Brix. (26 U.S.C. 5387)

5. Section 24.203 is revised to read as follows:

##### **§ 24.203 Honey wine.**

In the production of wine from honey, the winemaker may add water to facilitate fermentation, provided the density of the honey and water mixture is not reduced below 13 degrees Brix; hops in quantities not to exceed one pound for each 1,000 pounds of honey; pure, dry sugar or honey for sweetening; and sugar only after fermentation is completed. After complete fermentation or complete fermentation and sweetening, the wine may not have an alcohol content of more than 14 percent by volume or a total solids content exceeding 35 degrees Brix. (26 U.S.C. 5387)

Signed: February 5, 2003.

**Arthur J. Libertucci,**  
Administrator.

Approved: March 11, 2003.

**Timothy E. Skud,**  
Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 110

[CGD05–03–036]

RIN 1625–AA01

#### Baltimore Harbor Anchorage Project

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the geographic coordinates and modify the regulated use of the anchorages in Baltimore Harbor, MD. This amendment is necessary to ensure changes in depth as resulting from an Army Corps of Engineers anchorage-deepwater project and that the dimensions of the Baltimore Harbor anchorages are reflected in the Federal regulations and on NOAA charts. This proposed regulated uses modification will accommodate changes to ships' drafts and lengths since the last revision of this regulation in 1968 and will harmonize the anchorage regulation throughout the Fifth Coast Guard District.

**DATES:** Comments and related material must reach the Coast Guard on or before September 2, 2003.

**ADDRESSES:** You may mail comments and related material to Commander, Fifth Coast Guard District (oan), 431 Crawford Street, Portsmouth, VA, 23704–5004. The Aids to Navigation and Waterways Management Branch (oan) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Aids to Navigation and Waterways Management Branch office between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJg Anne Grabins, Fifth Coast Guard District Aids to Navigation and Waterways Management Branch, (757) 398–6559.

#### **SUPPLEMENTARY INFORMATION:**

#### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–02–040), indicate the specific section of this document to which each comment

applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Aids to Navigation and Waterways Management Branch at the address under **ADDRESSES** explaining why one 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**.

#### Background and Purpose

The U.S. Army Corps of Engineers received Congressional authorization for the Baltimore Harbor Anchorage project in September 2001. The objective of this project is to increase the project depths of Anchorage No. 3 and No. 4 to 42 ft and 35 ft respectively. The original Federal anchorage project for Baltimore Harbor was designed to accommodate cargo ships with maximum drafts of 33 ft and lengths of 550 ft. The dimensions of the anchorages are changing to accommodate the larger ships that call on the Port that routinely approach 1000 ft LOA with drafts of 36 to 38 feet or more. The new coordinates established for Anchorage Nos. 2, 3, and 4, will also accommodate the widening of the Dundalk West Channel, a north/south Federal navigation project located between Anchorage No. 3 and Anchorage No. 4 and widening of the Dundalk East Channel bordering Anchorage No. 4.

Dredging for the Baltimore Harbor Anchorage project commenced in March 2002 and is scheduled for completion in May 2003.

#### Discussion of Proposed Rule

This proposed rule would amend the Federal regulations to reflect the changes made to Baltimore Harbor as a result of the Army Corps of Engineers' Baltimore Harbor anchorage improvement project currently in progress and scheduled for completion in May 2003. As a result of this improvement project, the dimensions for the anchorages will change. Analyzing the existing anchorage areas and naturally occurring depths, the Army Corps of Engineers identified areas best suited to meet the needs of

the vessels that most frequently call on the Port of Baltimore. Upon completion, Anchorage No. 3 will be divided into two sections: Anchorage 3 Lower (2200' x 2200' x 42 ft mean lower low water (MLLW)) and Anchorage 3 Upper (1800' x 1800' x 42ft MLLW). Anchorage No. 4 will also be modified (1850' x 1800' x 35ft MLLW).

The changes made to Upper 3, Lower 3 and Anchorage No. 4 will change the dimensions of Anchorage No. 2, bordering Anchorage No. 3 to the west and north. Anchorage No. 2 will also be expanded to include the area between Lower 3 and the Seagirt Marine Terminal Entrance Channel. Anchorage No. 2 is an unimproved anchorage, and its depths are not maintained by periodic dredging.

#### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. The deepening of anchorage 3 and anchorage 4 within the Port of Baltimore will better accommodate deep draft vessels waiting for an open berth. The Coast Guard does not expect that these new accommodations will adversely impact maritime commerce.

#### 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. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels used for chartering,

taxi, ferry services, or any other marine traffic that transit this area of Fort McHenry Channel in Baltimore Harbor. Changes to Anchorage No. 3 and Anchorage No. 4 may change the vessel routing through this area of the harbor. Deepening the anchorages and changing the coordinates for the anchorages would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic could pass safely around the new anchorage areas. The new coordinates for the anchorages are a change in dimension, the size of which will remain proportional to its current size, and their location will not interfere with commercial traffic.

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 (Pub. L. 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 LTjg Anne Grabins at the address listed (*see* **ADDRESSES**).

#### 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 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2. of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation. This proposed rule would change the size of Anchorage No. 2, Anchorage No. 3 and Anchorage No. 4.

A draft "Environmental Analysis Check List" and a draft "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

#### List of Subjects in 33 CFR Part 110

Anchorage regulations.

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; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. In § 110.158, revise paragraphs (a) and (b) and add paragraphs (c), (d), and (e) to read as follows:

#### § 110.158 Baltimore Harbor, MD.

(a) *Anchorage grounds.*

(1) *Anchorage No. 1, general anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°15'13.0" N	76°34'08.5" W
39°15'10.5" N	76°34'12.5" W
39°14'52.5" N	76°33'54.0" W
39°14'48.0" N	76°33'42.0" W
DATUM: NAD 83	

(2) *Anchorage No. 2, general anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°15'14.8" N	76°32'59.6" W
39°14'43.9" N	76°32'27.0" W
39°14'37.7" N	76°32'28.1" W
39°14'30.9" N	76°32'33.5" W
39°14'46.2" N	76°32'49.7" W
39°14'43.7" N	76°32'63.6" W
39°14'57.5" N	76°33'08.1" W
39°14'46.2" N	76°33'25.8" W
39°15'01.4" N	76°33'42.6" W
39°15'08.5" N	76°33'37.7" W
39°15'19.2" N	76°33'24.5" W
39°15'19.3" N	76°33'14.4" W
DATUM: NAD 83	

(3) *Anchorage No. 3, Upper, general anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°14'32.5" N	76°33'11.3" W
39°14'46.2" N	76°33'25.8" W
39°14'57.5" N	76°33'08.1" W
39°14'43.7" N	76°33'53.6" W
DATUM: NAD 83	

(4) *Anchorage No. 3, Lower, general anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°14'32.5" N	76°33'11.3" W
39°14'46.3" N	76°32'49.7" W
39°14'30.9" N	76°32'33.5" W
39°14'24.4" N	76°32'39.9" W
39°14'15.6" N	76°32'53.6" W
DATUM: NAD 83	

(5) *Anchorage No. 4, general anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°13'52.9" N	76°32'29.6" W
39°14'05.9" N	76°32'43.3" W
39°14'07.3" N	76°32'43.1" W
39°14'17.9" N	76°32'26.4" W
39°14'05.3" N	76°32'13.1" W
39°14'00.5" N	76°32'17.8" W
DATUM: NAD 83	

(6) *Anchorage No. 5, general anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°14'07.0" N	76°32'58.5" W
39°13'34.0" N	76°32'24.0" W
39°13'22.0" N	76°32'29.0" W
39°13'21.0" N	76°33'12.0" W
DATUM: NAD 83	

(7) *Anchorage No. 6, general anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°13'42.5" N	76°32'20.2" W

Latitude	Longitude
39°13'20.0" N	76°31'56.0" W
39°13'34.0" N	76°31'33.5" W
39°14'02.0" N	76°32'02.9" W
39°13'50.5" N	76°32'20.0" W

(8) *Dead ship anchorage.* The waters bounded by a line connecting the following points:

Latitude	Longitude
39°13'00.4" N	76°34'10.4" W
39°13'13.4" N	76°34'10.8" W
39°13'13.9" N	76°34'05.7" W
39°13'14.8" N	76°33'29.8" W
39°13'00.4" N	76°33'29.9" W

(b) *Definitions.* As used in this section:

(1) *Dangerous cargo* means "certain dangerous cargo" as defined in § 160.203 of this chapter.

(2) *Class 1 (explosive) materials* means Division 1.1, 1.2, 1.3, and 1.4 explosives, as defined in 49 CFR 173.50.

(c) *General regulations.* (1) Except as otherwise provided, this section applies to vessels over 20 meters long and vessels carrying or handling dangerous cargo or Class 1 (explosive) materials while anchored in an anchorage ground described in this section.

(2) Except in cases where unforeseen circumstances create conditions of imminent peril, or with the permission of the Captain of the Port, no vessel shall be anchored in Baltimore Harbor and Patapsco River outside of the anchorage areas established in this section for more than 24 hours. No vessel shall anchor within a tunnel, cable or pipeline area shown on a government chart. No vessel shall be moored, anchored, or tied up to any pier, wharf, or other vessel in such manner as to extend into established channel limits. No vessel shall be positioned so as to obstruct or endanger the passage of any other vessel.

(3) Except in an emergency, a vessel that is likely to sink or otherwise become a menace or obstruction to navigation or the anchoring of other vessels may not occupy an anchorage, unless the vessel obtains a permit from the Captain of the Port.

(4) The Captain of the Port may grant a revocable permit to a vessel for a habitual use of an anchorage. Only the vessel that holds the revocable permit may use the anchorage during the period that the permit is in effect.

(5) Upon notification by the Captain of the Port to shift its position, a vessel at anchor shall get underway and shall move to its new designated position within 2 hours after notification.

(6) The Captain of the Port may prescribe specific conditions for vessels anchoring within the anchorages described in this section, including, but not limited to, the number and location of anchors, scope of chain, readiness of engineering plant and equipment, usage of tugs, and requirements for maintaining communication guards on selected radio frequencies.

(7) No vessel at anchor or at a mooring within an anchorage may transfer oil to or from another vessel unless the vessel has given the Captain of the Port the four hours advance notice required by § 156.118 of this title.

(8) No vessel may anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without prior approval of the Captain of the Port.

(d) *Regulations for vessels handling or carrying dangerous cargoes or Class 1 (explosive) materials.* (1) This paragraph applies to every vessel, except a U.S. naval vessel, handling or carrying dangerous cargoes or Class 1 (explosive) materials.

(2) The Captain of the Port may require every person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, to hold either a pass issued by the Captain of the Port or another form of identification prescribed by the Captain of the Port.

(3) Each person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, shall present the pass or other form of identification prescribed by paragraph (d)(2) of this section to any Coast Guard Boarding Officer who requests it.

(4) The Captain of the Port may revoke at any time a pass issued under the authority of paragraph (d)(2) of this section.

(5) Each non-self-propelled vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials must have a tug in attendance at all times while at anchor.

(6) Each vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while at anchor must display by day a bravo flag in a prominent location and by night a fixed red light.

(e) *Regulations for specific anchorages.* (1) *Anchorage 1.* Except when given permission by the Captain of the Port, a vessel may not anchor in this anchorage for more than 12 hours.

(2) *Anchorage 3.* Except when given permission by the Captain of the Port,

a vessel may not anchor in this anchorage for more than 24 hours.

(3) *Anchorage 7. Dead Ship Anchorage.* The primary use of this anchorage is to lay up dead ships. Such use has priority over other uses. A written permit from the Captain of the Port must be obtained prior to the use of this anchorage for more than 72 hours.

Dated: June 23, 2003.

**Sally Brice-O'Hara,**

*Rear Admiral, Coast Guard, Commander, Fifth Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TX-42-1-6274b; FRL-7521-1]

#### Approval and Promulgation of Implementation Plans for Texas; Approval of Section 179B Demonstration of Attainment, Carbon Monoxide Motor Vehicle Emissions Budget for Conformity, and Contingency Measure for El Paso Carbon Monoxide Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is approving, through direct final action, a revision to the Texas State Implementation Plan (SIP), submitted to show attainment of the Carbon Monoxide (CO) National Ambient Air Quality Standard (NAAQS) in the El Paso CO nonattainment area, but for emissions emanating from outside of the United States. The EPA is also approving the El Paso area's CO emissions budget, and a CO contingency measure requirement. The State submitted the revisions to satisfy sections 179B and other part D requirements of the Federal Clean Air Act (CAA).

**DATES:** Written comments on proposed rule are due on or before August 1, 2003.

**ADDRESSES:** Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.