Family and Medical Emergencies

Part 382 provides that, when a passenger does not provide advance notice for accommodations to which a carrier may apply an advance notice requirement, the carrier must provide the accommodation if it can do so by making reasonable efforts, without delaying the flights (see section 382.27(g)). The Department's rule is now in effect: Have passengers or airlines encountered any actual problems concerning the implementation of the provisions in question in this context?

The Department has issued the following FAQ discussing this principle in the context of the procedural steps of section 382.117(e):

Q. When must a carrier accommodate a passenger accompanied by an emotional support or psychiatric service animal who has not provided 48 hours' advance notice?

A. Carriers must accommodate a passenger accompanied by an emotional support or psychiatric service animal who has not provided 48 hours' advance notice if the carrier can do so by making reasonable efforts, without delaying a flight. The carrier, at its discretion, may waive its 48 hours' advance notice requirement in order to expedite the emergency air travel of a passenger accompanied by an emotional support or psychiatric service animal.

Does this guidance adequately handle the situation of ESA or PSA users with a family or medical emergency requiring short-notice travel? Should air carriers be able to require documentation of the emergency from someone seeking to travel with a PSA or ESA who cannot provide 48 hours' notice? Are there additional regulatory or guidance statements the Department should make on this matter, such as criteria for when and on what basis the 48 hours' advance notice period should be waived?

Lack of Medical Insurance or a Mental Health Care Provider

In the absence of recent documentation from a mental health professional, how is an air carrier to determine whether a passenger has a current need for an ESA or PSA? Would anyone using a PSA or ESA have had a medical recommendation for the use of such an animal at some time in the past that could be documented? If not, what information could establish a basis for the individual's claim that he or she needs a service animal? The Department has issued the following FAQ discussing this principle in the context of the procedural steps of section 382.117(e):

Q. May a carrier accept documentation from a licensed mental health professional concerning his or her need for a psychiatric or emotional support animal if the documentation is more than one year old?

A. Carriers may, at their discretion, accept from the passenger documentation from his or her licensed mental health professional that is more than one year old. We encourage carriers to consider accepting ''outdated'' documentation in situations where a passenger with a disability provides a letter or notice of cancellation or other written communication indicating the cessation of health insurance coverage, and his/her inability to afford treatment for his or her mental or emotional disability.

Does this guidance successfully address the situation of persons with mental health-related disabilities who may currently lack medical insurance? What is the experience of airlines and passengers with the existing rule and guidance, which are now in effect? Should the guidance or underlying regulatory provisions be changed (e.g., to eliminate the requirement, change the period of one year to something else, require airlines to include alternate documentation in some cases)?

Use of General Practitioners

The Department has clarified in the regulatory text of section 382.117(e), quoted above under ''The Current Regulation,'' that among the individuals authorized to provide documentation concerning the need for ESAs or PSAs include medical doctors who are specifically treating a passenger's mental or emotional disability. Does this clarification successfully address the concern about the types of doctors who can provide the documentation that the rule now requires? If not, what additional provisions would commenters recommend?

Americans With Disabilities Act (ADA) Analogy

The Department notes that the ACAA is a separate statute from the ADA. The ACAA is a specialized statute dealing only with transportation by air, in an environment in which a large number of people are confined within a limited space for what may be a prolonged period of time. The Department has long taken the position that accommodations for persons with disabilities, and DOT requirements for them, may justifiably differ between the air travel context and other contexts, such as places of public accommodation regulated by the Department of Justice under its ADA regulations. We seek comment on the application of this principle in the matter of PSAs and ESAs.

Alternatives for Consideration

After reviewing comments on this notice, the Department could make a number of different decisions with respect to the issues involved. The following are examples of actions the Department could take:

1. Leave the rule unchanged.
2. Leave the basic provisions of the rule (i.e., concerning documentation and advance notice) unchanged, but add provisions relating to specific concerns about the implementation of these provisions (e.g., with respect to medical privacy or other matters now addressed by FAQs).
3. Eliminate documentation and advance notice provisions for all types of animals assisting passengers with disabilities.
4. Eliminate the documentation and advance notice provisions for PSAs, but leave the provisions in effect for ESAs.
5. Leave the existing documentation and advance notice provisions for passengers with disabilities who wish to bring service animals on board an aircraft but whose types of disabilities are not readily apparent.
6. Leave the existing documentation and advance notice provisions in effect for ESAs and PSAs, but add parallel provisions for all passengers with disabilities who wish to bring service animals on board an aircraft.
7. Substitute an alternative method of preventing ''cheating'' that would allow airlines to distinguish service animals from pets but that did not involve the current documentation and/or advance notice provisions.

The fact that an idea is on this list does not mean that the Department necessarily supports it or believes that it would be good policy; the list merely sets out a range of possible approaches to the issues raised by the PSDS petition. Nor is the list exhaustive; the Department solicits other ideas for addressing these issues as well.

Issued this 27th day of August 2009, at Washington, DC.

Christa Fornarotto,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. E9–21351 Filed 9–17–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG 2008–1082]

RIN 1625–AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend Anchorage Ground No. 19 located east of the Weehawken-Edgewater Federal Channel on the Hudson River. This action is necessary to facilitate safe navigation and provide safe and secure anchorages for vessels operating in the area. This proposal is intended to increase the safety of life and property of both the anchored vessels and those operating in the area as well as to provide for the overall safe and efficient flow of commerce.

DATES: Comments and related material must be received by the Coast Guard on or before November 17, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2008–1082 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 Mr. Jeff Yunker, Coast Guard Sector New York, Waterways Management Division; telephone 718–354–4195, e-mail *Jeff.M.Yunker@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–2008–1082), 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 *http://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* and click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop-down menu select ''Proposed Rule'' and insert ''USCG–2008–1082'' in the ''Keyword'' box. Click ''Search'' 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* and click on the ''Read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2008–1082'' 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**.

Background and Purpose

The Hudson River Pilots Association, through the Port of New York/New Jersey Harbor Safety, Navigation and Operations Committee, has requested that the Coast Guard revise the boundaries of Anchorage Ground No. 19 which is located on the Hudson River, east of the Weehawken-Edgewater Federal Channel and south of the George Washington Bridge.

Due to severe recurring shoaling within the Weehawken-Edgewater Federal Channel, the Hudson River Pilots requested and received authorization from the Coast Guard and Army Corps of Engineers to pilot vessels through the deeper and safer water located east of the Weehawken-Edgewater Federal Channel which is within the current boundaries of Anchorage Ground No. 19.

This proposed revision would divide Anchorage Ground 19 into two separate Anchorage Areas; Anchorage Ground No. 19 West and Anchorage Ground No. 19 East. This proposed change will allow deep draft vessels to transit the deeper water without having to transit through the current boundaries of Anchorage Ground 19. The U.S. Army Corps of Engineers, in conjunction with this rulemaking, intends to relocate the Weehawken-Edgewater Federal Channel to the East of its current location. Under this proposed rule, The Weehawken-Edgewater Federal Channel would be located between the proposed Anchorage Ground No. 19 West and Anchorage Ground No. 19 East. Due to shoaling, the March 2007 (ACOE)

survey verified a controlling depth of 27 feet in the Right Outside Quarter of the Weehawken-Edgewater Channel where vessels bound for ports north of New York City would have to transit. As published by the U.S. Army Corps of Engineers (ACOE) Institute for Water Resources, vessels with drafts of up to 34 feet transit the Hudson River. In calendar year 2006, there were 6,562 transits on the Hudson River between the mouth of the Harlem River and Waterford, NY by vessels with a draft of 27 feet or greater. Vessels with a draft of 27 feet or greater would be required to transit through the new channel which is within the current boundaries of Anchorage Ground No. 19.

Tug & Barge traffic within the harbor has increased 37% since 1991. Anchorage Ground No. 19 is the closest Anchorage Ground to use when there is no space for temporary anchoring within the Upper New York Bay Anchorage Grounds. Hence, these vessels transit to Anchorage Ground No. 19 to await a berth, or orders, to minimize fuel consumption and provide an orderly flow of commerce within the harbor and the New England region.

On October 14, 2008 the Captain of the Port (COTP) issued an Advisory Notice to all Tug & Barge operators and the Hudson River Pilots. The COTP notified the maritime community that in accordance with 33 CFR 110.155(c)(5)(i) he would only grant permission for vessels to anchor on the western boundary of the existing Anchorage Ground No. 19 as an interim measure to facilitate vessel transits through the area while alternatives are explored.

This proposed rule would modify Anchorage Ground No. 19 and remove the need for vessels to transit through the anchorage when the Army Corps relocates Weehawken-Edgewater Federal Channel to the Eastern portion of the Hudson River. This proposed rule will eliminate the unsafe transit conditions of deep draft vessels transiting through the current Anchorage Ground No. 19.

Discussion of Proposed Rule

In this rule we propose to divide the current Anchorage Ground No. 19 into two Anchorage Grounds. Anchorage No. 19 East would be bounded by the following points: 40°49′42.6″ N, 073°57′14.7″ W; thence to 40°49′45.9″ N, 073°57′22.0″ W; thence to 40°49′52.0″ N, 073°57′22.0″ W; thence to 40°50′08.3″ N, 073°57′10.8″ W; thence to 40°50′55.4″ N, 073°56′59.7″ W; thence to 40°51′02.5″ N, 073°56′57.4″ W; thence to 40°51′00.8″ N, 073°56′49.4″W; thence along the shoreline to the point of origin (NAD 83). Anchorage No. 19 West would be bounded by the following points: 40°46′56.3″ N, 073°59′42.2″ W; thence to 40°47′36.9″ N, 073°59′11.7″ W; thence to 40°49′31.3″ N, 073°57′43.8″ W; thence to 40°49′40.2″ N, 073°57′37.6″ W; thence to 40°49′52.4″ N, 073°57′37.6″ W; thence to 40°49′57.7″ N, 073°57′47.3″ W; thence to 40°49′32.2″ N, 073°58′12.9″ W; thence to 40°49′00.7″ N, 073°58′33.1″ W; thence to 40°48′28.7″ N, 073°58′53.8″ W; thence to 40°47′38.2″ N, 073°59′31.2″ W; thence to 40°47′02.7″ N, 073°59′57.4″ W; thence to the point of origin (NAD 83).

The current Anchorage Ground No. 19 covers 1,352 acres. The proposed Anchorage Ground No. 19 West would cover 714.5 acres while the proposed Anchorage Ground No. 19 East would cover 185.5 acres. There would be 400 yards separating the two Anchorage Grounds for vessel transits.

We propose to revise the regulations specific to these two anchorage grounds and change the current numbering within this section. The new regulations applicable to Anchorage 19 East and West will appear in 33 CFR 110.155(c)(5)(iii)(A)–(E). The proposed changes to the anchorage regulations are detailed below.

We propose to discontinue the requirement (currently at 33 CFR 110.155(c)(5)(i)) that all vessels obtain permission from the Captain of the Port prior to anchoring. The Captain of the Port is currently not authorizing any vessels to anchor within the proposed revised Federal Channel. If the proposed rule is finalized, then the Coast Guard would no longer require this regulation to stop vessels from anchoring within the deep water being used for vessel transits. Vessels may still be required to shift their position into, or within, the anchorage under the authority of 33 CFR 110.155(l)(12).

We propose to discontinue the requirement (currently at 33 CFR 110.155(c)(5)(ii)) that each vessel report its position to the Captain of the Port immediately after anchoring. This provision is no longer required due to vessels already reporting their position via their Automated Identification System (AIS) equipment and/or radar returns from the vessels received by the Coast Guard and Vessel Traffic Service (VTS).

We propose to revise the regulation (currently at 33 CFR 110.155(c)(5)(iii)) that currently provides that no vessel may conduct lightering operations in these anchorage grounds without permission from the Captain of the Port. The revision will clarify that when lightering is requested, the Captain of the Port must be notified at least four hours in advance of a vessel conducting lightering operations as required by § 156.118 of this title.

We propose to discontinue the requirement (currently at 33 CFR 110.155(c)(5)(iv)) that each vessel move when the Captain of the Port notifies them the Anchorage is required by naval vessels. This regulation is no longer required as the closest naval facility is now located approximately 22 nautical miles away at Earle, NJ. A copy of this notice of proposed rulemaking will be provided to the Navy seeking comment regarding the disestablishment of the Naval Anchorages in this area and whether they intend to anchor vessels on this part of the Hudson River at a future time. Additionally, vessels may still be required to shift their position into, or within, the anchorage under current Captain of the Port authority as provided for in 33 CFR 110.155(l)(12).

We propose to revise the regulation (currently at 33 CFR 110.155(c)(5)(v)) requiring 48 hours advance notice to the Captain of the Port from vessels over 800 feet in length overall, or 40 feet in draft, requesting to use the anchorage. As discussed below, we propose to limit this anchorage ground to tugs and/or barges. Ships will not be authorized to anchor in these proposed anchorage grounds as they are already anchoring outside of the Federal Channel, off Yonkers, NY, approximately 5 to 10 nautical miles north of these proposed revised anchorage grounds.

We propose to add a requirement that any vessel conducting lightering or bunkering operations shall display by day a red flag (Pub 102; International Code of Signals; signaling instructions) at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night the flag must be illuminated by spotlight. These signals shall be in addition to day signals, lights and whistle signals as required by rules 30 (33 U.S.C. 2030) and 35 (33 U.S.C. 2035) of the Inland Navigation Rules when at anchor in a general anchorage area.

We propose to add a requirement that within an anchorage, fishing and navigation are prohibited within 500 yards of an anchored vessel displaying a red flag by day or a red light by night.

We propose to add a regulation (the proposed 33 CFR 110.155(c)(5)(iii)(D)) to specify that these anchorage grounds are only authorized for use by tugs and/or barges.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This conclusion is based upon the fact that there are no fees, permits, or specialized requirements for the maritime industry to utilize these anchorage areas. The regulation is solely for the purpose of advancing safety of 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 intending to transit through the proposed Anchorage Grounds 19 East and 19 West. Vessels intending to anchor in the current Anchorage Ground No. 19 would still be able to anchor in the revised Anchorage Ground No. 19 East or No. 19 West.

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 Mr. Jeff Yunker at 718–354–4195. 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 effect 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 023–01 and Commandant Instruction M16475.lD, 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. This rule involves changing the size of anchorage grounds resulting in a reduction in the overall size of the anchorage area. 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; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 110.155, by revising paragraph (c)(5) to read as follows:

§ 110.155 Port of New York.

* * * * *

(c) * * *

(5) Anchorages No. 19 East and 19 West.

(i) Anchorage No. 19 East. All waters of the Hudson River bound by the following points: 40°49′42.6″ N, 073°57′14.7″ W; thence to 40°49′45.9″ N, 073°57′22.0″ W; thence to 40°49′52.0″ N, 073°57′22.0″ W; thence to 40°50′08.3″ N, 073°57′10.8″ W; thence to 40°50′55.4″ N, 073°56′59.7″ W; thence to 40°51′02.5″ N, 073°56′57.4″ W; thence to 40°51′00.8″ N, 073°56′49.4″ W; thence along the shoreline to the point of origin (NAD 83).

(ii) Anchorage No. 19 West. All waters of the Hudson River bound by the following points: 40°46′56.3″ N, 073°59′42.2″ W; thence to 40°47′36.9″ N, 073°59′11.7″ W; thence to 40°49′31.3″ N, 073°57′43.8″ W; thence to 40°49′40.2″ N, 073°57′37.6″ W; thence to 40°49′52.4″ N, 073°57′37.6″ W; thence to 40°49′57.7″ N, 073°57′47.3″ W; thence to 40°49′32.2″ N, 073°58′12.9″ W; thence to 40°49′00.7″ N, 073°58′33.1″ W; thence to 40°48′28.7″ N, 073°58′53.8″ W; thence to 40°47′38.2″ N, 073°59′31.2″ W; thence to 40°47′02.7″ N, 073°59′57.4″ W; thence to the point of origin.

(iii) The following regulations apply to 33 CFR 110.155(c)(5)(i) and (ii):

(A) No vessel may conduct lightering operations in these anchorage grounds without permission from the Captain of the Port. When lightering is authorized, the Captain of the Port New York must be notified at least four hours in advance of a vessel conducting lightering operations as required by § 156.118 of this title.

(B) Any vessel conducting lightering or bunkering operations shall display by day a red flag (Pub 102; International Code of Signals; signaling instructions) at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night the flag must be illuminated by spotlight. These signals shall be in addition to day signals, lights and whistle signals as required by rules 30 (33 U.S.C. 2030) and 35 (33 U.S.C. 2035) of the Inland Navigation Rules when at anchor in a general anchorage area.

(C) Within an anchorage, fishing and navigation are prohibited within 500 yards of an anchored vessel displaying a red flag by day or a red light by night.

(D) These anchorage grounds are only authorized for use by tugs and/or barges.

(E) No vessel may occupy this anchorage ground for a period of time in excess of 96 hours without prior approval of the Captain of the Port.

(F) All coordinates referenced use datum: NAD 83.

* * * * *

Dated: July 23, 2009.

Dale G. Gabel,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. E9–22457 Filed 9–17–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2005–0463; FRL–8957–2]

Approval and Promulgation of State Implementation Plans; State of Colorado; Revisions to the Denver Emergency Episode Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions to the Denver Emergency Episode Plan submitted by the State of Colorado on September 16, 1997. EPA has determined that the Denver Emergency Episode Plan revisions meet the requirements for the prevention of air pollution emergency episodes with ambient concentrations of air pollutants that may endanger public health and welfare. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a non-controversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before October 19, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2005–0463, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- E-mail: *videtich.callie@epa.gov* and *mastrangelo.domenico@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Domenico Mastrangelo, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6436, *mastrangelo.domenico@epa.gov.*

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final