

the final order of the Secretary and may be enforced pursuant to § 1981.113.

§ 1981.112 Judicial review.

(a) Within 60 days after the issuance of a final order by the Board (Secretary) under § 1981.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. A final order of the Board is not subject to judicial review in any criminal or other civil proceeding.

(b) If a timely petition for review is filed, the record of a case, including the record of proceedings before the administrative law judge, will be transmitted by the Board to the appropriate court pursuant to the rules of the court.

§ 1981.113 Judicial enforcement.

Whenever any person has failed to comply with a preliminary order of reinstatement or a final order or the terms of a settlement agreement, the Secretary or a person on whose behalf the order was issued may file a civil action seeking enforcement of the order in the United States district court for the district in which the violation was found to have occurred.

§ 1981.114 Special circumstances; waiver of rules.

In special circumstances not contemplated by the provisions of this part, or for good cause shown, the administrative law judge or the Board on review may, upon application, after three days notice to all parties, waive any rule or issue any orders that justice or the administration of the Act requires.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD05-03-036]

RIN 1625-AA01

Anchorage Grounds; Baltimore Harbor Anchorage Project

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the geographic coordinates and

modifying the regulated use of the anchorages in Baltimore Harbor, MD. This amendment is necessary to ensure changes in depth and dimension to the Baltimore Harbor anchorages resulting from an Army Corps of Engineers anchorage-deepening project are reflected in the Federal regulations and on National Oceanic and Atmospheric Association charts. The modifications to the regulated uses of the anchorages accommodate changes to ships' drafts and lengths since the last revision of this regulation in 1968 and standardize the anchorage regulations throughout the Fifth Coast Guard District.

DATES: This rule is effective May 9, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-03-036 and are available for inspection or copying at Commander, Fifth Coast Guard District (oan), 431 Crawford Street, Portsmouth, VA, 23704-5004 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Timothy Martin, Fifth Coast Guard District Aids to Navigation and Waterways Management Branch, (757) 398-6285.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 2, 2003, we published a notice of proposed rulemaking (NPRM) entitled Baltimore Harbor Anchorage Project in the **Federal Register** (68 FR 39503). We received one phone call commenting on the NPRM. No public hearing was requested, and none was held.

On January 14, 2004 we published a supplemental notice of proposed rulemaking (SNPRM) also entitled Baltimore Harbor Anchorage Project in the **Federal Register** (69 FR 2095) to solicit for comments on updates made to Anchorage 2. No public hearing was requested, and none was held.

On October 12, 2004 we published a supplemental notice of proposed rulemaking (SNPRM) again entitled Baltimore Harbor Anchorage Project in the **Federal Register** (69 FR 60592) to better align the anchorages with the Federal navigation project. No comments were received on the SNPRM. No public hearing was requested, none was held.

Background and Purpose

The U.S. Army Corps of Engineers received Congressional authorization for the Baltimore Harbor Anchorage project

in September 2001. Dredging for the Baltimore Harbor Anchorage was completed in May 2003. The objective of this project was to increase the project depths of Anchorage No. 3 and No. 4 to 42ft and 35ft respectively.

The original Federal anchorage project for Baltimore Harbor was designed to accommodate cargo ships with maximum drafts of 33ft and lengths of 550ft. The dimensions of the anchorages changed to accommodate the larger ships that call on the Port that routinely approach 1000ft length overall with drafts of 36 to 38 feet or more. The new coordinates established for Anchorage Nos. 2, 3, and 4, 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. Anchorage No. 3 was divided into two sections: Anchorage 3 Lower (2200' x 2200' x 42ft mean lower low water (MLLW)) and Anchorage 3 Upper (1800' x 1800' x 42ft MLLW). Anchorage No. 4 was also modified (1850' x 1800' x 35ft MLLW).

Discussion of Comments and Changes

One comment was received regarding the new coordinates of the anchorages in response to the NPRM (68 FR 39503). Three changes were made based on that comment. The longitude for the fourth coordinate in Anchorage 3 Upper listed as 76° 33'53.6" W was changed to 76° 32' 53.6" W. In Anchorage 2, the sixth position incorrectly listed as 39° 14'43.7" N, 76° 2'63.6" W was changed to 39°14'43.7" N, 76° 32'53.6" W. Also in Anchorage 2, the second coordinate listed as 39° 14'43.9" N, 76° 32'27.0" W was excluded.

Two changes were made to the two northwestern coordinates in Anchorage 2 after the comment period for the NPRM had expired. Therefore, we issued a SNPRM to solicit comments. No comments were received.

Minor changes were made to the geographic points making up Anchorages 1, 2, 5, 6 and 7 to aid in the graphical representations of those anchorages and better align them with the Federal navigation project. One decimal place was added to all coordinates to better define the anchorage boundaries. Therefore, we published a second SNPRM to solicit comments on the changes. No comments were received.

Regulatory Evaluation

This 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).

The deepening of Anchorage No. 3 and Anchorage No. 4 within the Port of Baltimore accommodates deep draft vessels waiting for an open berth. The Coast Guard does not expect that these new regulations will adversely impact maritime commerce.

Small Entities

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

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. This rule may 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 will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can 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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could 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 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).

Collection of Information

This rule calls 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 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 rule will not result in such an expenditure, we do discuss possible effects of this rule in the section titled Small Entities in this preamble.

Taking of Private Property

This rule will 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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.

Energy Effects

We have analyzed this 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this 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 rule changes the size of Anchorage No. 2, Anchorage No. 3 and Anchorage No. 4 and modifies the regulated uses of these anchorages.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are 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, 2030, 2035 and 2071; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

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

§ 110.158 Baltimore Harbor, MD.

North American Datum 1983.

(a) *Anchorage Grounds*.

(1) *Anchorage No. 1, general anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°15'13.51" N	76°34'07.76" W
39°15'11.01" N	76°34'11.69" W
39°14'52.98" N	76°33'52.67" W
39°14'47.90" N	76°33'40.73" W

(ii) No vessel shall remain in this anchorage for more than 12 hours without permission from the Captain of the Port.

(2) *Anchorage No. 2, general anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°14'46.23" N	76°33'25.82" W
39°14'56.96" N	76°33'37.15" W
39°15'08.55" N	76°33'37.65" W
39°15'19.28" N	76°33'24.49" W
39°15'19.33" N	76°33'14.32" W
39°15'14.19" N	76°32'57.76" W
39°15'06.87" N	76°32'45.48" W
39°14'41.37" N	76°32'27.38" W
39°14'30.93" N	76°32'33.52" W
39°14'46.27" N	76°32'49.69" W
39°14'43.76" N	76°32'53.62" W
39°14'57.51" N	76°33'08.13" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(3) *Anchorage No. 3, Upper, general anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°14'32.48" N	76°33'11.31" W
39°14'46.23" N	76°33'25.82" W
39°14'57.51" N	76°33'08.13" W
39°14'43.76" N	76°32'53.62" W

(ii) No vessel shall remain in this anchorage for more than 24 hours without permission from the Captain of the Port.

(4) *Anchorage No. 3, Lower, general anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°14'32.48" N	76°33'11.31" W
39°14'46.27" N	76°32'49.69" W
39°14'30.93" N	76°32'33.52" W
39°14'24.40" N	76°32'39.87" W
39°14'15.66" N	76°32'53.58" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(5) *Anchorage No. 4, general anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°13'52.91" N	76°32'29.60" W
39°14'05.91" N	76°32'43.30" W
39°14'07.30" N	76°32'43.12" W
39°14'17.96" N	76°32'26.41" W
39°14'05.32" N	76°32'13.09" W
39°14'00.46" N	76°32'17.77" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(6) *Anchorage No. 5, general anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°14'07.89" N	76°32'58.23" W
39°13'34.82" N	76°32'23.66" W
39°13'22.25" N	76°32'28.90" W
39°13'21.20" N	76°33'11.94" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(7) *Anchorage No. 6, general anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°13'42.98" N	76°32'19.11" W
39°13'20.65" N	76°31'55.58" W
39°13'34.00" N	76°31'33.50" W
39°14'01.95" N	76°32'02.65" W

39°13'51.01" N 76°32'18.71" W

(ii) No vessel shall remain in this anchorage for more than 72 hours without permission from the Captain of the Port.

(8) *Anchorage No. 7, Dead ship anchorage*.

(i) The waters bounded by a line connecting the following points:

<i>Latitude</i>	<i>Longitude</i>
39°13'00.40" N	76°34'10.40" W
39°13'13.40" N	76°34'10.81" W
39°13'13.96" N	76°34'05.02" W
39°13'14.83" N	76°33'29.80" W
39°13'00.40" N	76°33'29.90" W

(ii) The primary use of this anchorage is to lay up dead ships. Such use has priority over other uses. Permission from the Captain of the Port must be obtained prior to the use of this anchorage for more than 72 hours.

(b) *Definitions*. As used in this section: *Class 1 (explosive) materials* means Division 1.1, 1.2, 1.3, and 1.4 explosives, as defined in 49 CFR 173.50. *Dangerous cargo* means certain dangerous cargo as defined in Sec. 160.203 of this title.

(c) *General regulations*. (1) Except as otherwise provided, this section applies to vessels over 20 meters long and all 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 chapter.

(8) No vessel shall 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 (d) 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 a form of identification prescribed in the vessel's security plan.

(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 identification prescribed by paragraph (d)(2) of this section to any Coast Guard Boarding Officer who requests it.

(4) 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.

(5) 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.

Dated: March 25, 2005.

Ben Thomason, III,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2004-0412; FRL-7691-8]

Buprofezin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of buprofezin in or on avocado, papaya, star apple, black sapote, mango, sapodilla, canistel, mamey sapote, sugar apple, cherimoya, atemoya, custard apple, ilama, soursop, birida, guava, feijoa, jaboticaba, wax jambu, starfruit, passionfruit, and acerola at 0.30 parts per million (ppm); pome fruit at 0.30 ppm; peach at 9.0 ppm, meat (cattle, goat, hog, horse, and sheep) at 0.05 ppm; kidney (cattle, goat, hog, horse, and sheep) at 0.05 ppm.; lettuce, head at 5.0 ppm, Lettuce, leaf at 13.0 ppm, and Vegetable, cucurbit at 0.5 ppm; fruit, citrus, group 10 at 2.5 ppm; citrus, dried, pulp at 7.5 ppm; and citrus, oil at 80 ppm. Nichino America, Inc., Linden Park, Suite 501, 4550 New Linden Hill Road, Wilmington, DE 19808 requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective April 8, 2005. Objections and requests for hearings must be received on or before June 7, 2005.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP-2004-0412. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Richard J. Gebken, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6701; e-mail address: gebken.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

II. Background and Statutory Findings

In the **Federal Register** of March 17, 2004 (69 FR 12676) (FRL-7347-1), EPA issued a notice pursuant to section