

per application = 30,000 minutes/by 60 minutes per hour = 500 hours.

Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. The PSOB program is a federal benefits program that provides benefits directly to qualifying individuals. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 28 CFR Part 32

Administrative practice and procedure, Claims, Disability benefits, Education, Emergency medical services, Firefighters, Law enforcement officers, Reporting and recordkeeping requirements, Rescue squad.

Accordingly, for the reasons set forth in the preamble, part 32 of chapter I of Title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 32—PUBLIC SAFETY OFFICERS' DEATH, DISABILITY, AND EDUCATIONAL ASSISTANCE BENEFITS CLAIMS

1. The authority citation for 28 CFR part 32 continues to read as follows:

Authority: 42 U.S.C. ch. 46, subch. XII; 42 U.S.C. 3782(a), 3787, 3788, 3791(a), 3793(a)(4) & (b), 3795a, 3796c-1, 3796c-2; sec. 1601, title XI, Pub. L. 90-351, 82 Stat. 239; secs. 4 through 6, Pub. L. 94-430, 90 Stat. 1348; secs. 1 and 2, Pub. L. 107-37, 115 Stat. 219.

2. Amend § 32.3 as follows:

a. Amend the definition of Act by removing "and Apr. 5, 2006 (designated beneficiaries))" and adding in its place "Apr. 5, 2006 (designated beneficiaries); and Jan. 2, 2013)".

b. Add definitions of List of WTC-related health conditions and Physical harm in alphabetical order to read as follows:

§ 32.3 Definitions.

\* \* \* \* \*

List of WTC-related health conditions means the list of health conditions (other than a mental-health condition) listed—

- (1) At 42 U.S.C. 300mm-22(a)(3); or
(2) On the List of WTC-Related Health Conditions in 42 CFR part 88.

\* \* \* \* \*

Physical harm means physical harm as defined at 28 CFR 104.2(c).

\* \* \* \* \*

3. Amend § 32.5 by adding paragraph (j) to read as follows:

§ 32.5 Evidence.

\* \* \* \* \*

(j) Physical harm suffered by a public safety officer as a direct and proximate result of a condition on the List of WTC-Related Health Conditions shall be understood to be a line-of-duty injury if, as determined by the PSOB determining official, and pursuant to the standards governing the World Trade Center Health Program's certification of injuries as covered by the program, such officer's exposure to airborne toxins, any other hazards, and any other adverse conditions resulting from the September 11, 2001, terrorist attacks is substantially likely to have been a significant factor in aggravating, contributing to, or causing the illness or health condition.

4. Amend § 32.6 by adding paragraph (f) to read as follows:

§ 32.6 Payment and repayment.

\* \* \* \* \*

(f)(1) If compensation under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note)) has been paid with respect to an injury, the total amount payable under subpart B or C of this part, with respect to the same injury, shall be reduced by the amount of such payment of compensation.

(2) Nothing in paragraph (f)(1) of this section, or in the Act, at 42 U.S.C. 3796(f)(3), shall be understood to preclude payment under this part before the final payment of compensation under such Fund.

(3) Nothing in the Act, at 42 U.S.C. 3796(f)(3), shall be understood to require reduction of any amount payable under subpart D of this part.

5. Amend § 32.13 as follows:

a. Add definitions of Something other than the mere presence of cardiovascular disease risk factors and Unrelated in alphabetical order.

b. Remove the definitions of Competent medical evidence to the contrary, Excessive consumption of alcohol, Extrinsic circumstances, Risky behavior, and Undertaking of treatment. The additions read as follows:

§ 32.13 Definitions.

\* \* \* \* \*

Something other than the mere presence of cardiovascular disease risk factors means—

- (1) Ingestion of controlled substances included on Schedule I of the drug control and enforcement laws (see 21 U.S.C. 812(a)); or
- (2) Abuse of controlled substances included on Schedule II, III, IV, or V of

the drug control and enforcement laws (see 21 U.S.C. 812(a)).

\* \* \* \* \*

Unrelated—A public safety officer's heart attack, stroke, or vascular rupture is unrelated to the officer's engagement in a situation or participation in a training exercise, as described in 42 U.S.C. 3796(k)(1), when an independent event or occurrence significantly contributes in bringing about the officer's heart attack, stroke, or vascular rupture.

§ 32.14 [Amended]

6. In § 32.14, remove paragraph (c).

7. In § 32.33, the definition of Eligible public safety officer is revised to read as follows:

§ 32.33 Definitions.

\* \* \* \* \*

Eligible public safety officer means a public safety officer—

(1) With respect to whose death, benefits under subpart B of this part properly—

- (i) Have been paid; or
- (ii) Would have been paid but for operation of the Act, at 42 U.S.C. 3796(f); or

(2) With respect to whose disability, benefits under subpart C of this part properly—

- (i) Have been paid; or
- (ii) Would have been paid, but for operation of—
(A) Paragraph (b)(1) of § 32.6; or
(B) The Act, at 42 U.S.C. 3796(f).

\* \* \* \* \*

Dated: June 30, 2016.

Karol V. Mason, Assistant Attorney General.

[FR Doc. 2016-16086 Filed 7-14-16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2016-0110]

RIN 1625-AA01

Anchorage Grounds; Delaware Bay and River, Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the anchorage regulations for Delaware Bay and River. The Coast Guard conducted a review of the Delaware Bay and River anchorage

grounds to support increased traffic and vessel size. The proposed changes to this regulation would eliminate unusable anchorage grounds and provide additional usable grounds to support current and future port demands and enhance the overall navigation safety of this critical component of the maritime transportation system. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before August 15, 2016.

**ADDRESSES:** You may submit comments identified by docket number USCG–2016–0110 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, telephone (215) 271–4851, email [Brennan.P.Dougherty@uscg.mil](mailto:Brennan.P.Dougherty@uscg.mil) or Lieutenant Commander Tiffany Johnson, U.S. Coast Guard, Fifth Coast Guard District, Waterways Management Branch, telephone (757) 398–6516, email [Tiffany.A.Johnson@uscg.mil](mailto:Tiffany.A.Johnson@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code  
 COTP Captain of the Port

##### II. Background, Purpose, and Legal Basis

The Delaware Bay and River anchorage grounds are largely used by commercial vessel traffic. General regulations covering the anchorage of vessels in the port are set out in 33 CFR 110.157. In 1992, the Delaware River Main Channel Deepening project was authorized for construction by Public Law 102–580, Section 101 (6) of the Water Resources Development Act (WRDA) 1992; modified by Public Law 106–53, Section 308 of WRDA 1999 and further modified by Public Law 106–541, Section 306 of WRDA 2000. This project includes deepening the existing Delaware River Federal Navigation Channel from 40 to 45 feet from Philadelphia, Pennsylvania, and

Camden, New Jersey to the mouth of the Delaware Bay. The Army Corps of Engineers (USACE) along with non-Federal sponsor, the Philadelphia Regional Port Authority (PRPA), commenced dredging for this project in 2010. This project, once completed, will allow for deeper draft vessels within the port and increase overall traffic, and anchorage usage. Due to this anticipated increase in marine traffic a review of the current Delaware Bay and River anchorage grounds was conducted by the Waterways Management Division Sector Delaware Bay, Philadelphia, PA in coordination with the Mariners Advisory Committee (MAC). Upon review it was found that multiple anchorage grounds in 33 CFR 110.157 were unusable for some larger vessels due to lack of depth needed to safely anchor. Other anchorage grounds are unusable because they spanned underneath bridges where it would be impractical for vessels to anchor, and posed an increased and unnecessary safety risk of bridge allision. The proposed changes to the Delaware Bay and River anchorages would eliminate unusable anchorage grounds and maximize usable anchorage grounds within the anchorage boundaries while continuing to safely support current and future port demands. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

##### III. Discussion of Proposed Rule

The following changes are being proposed for seven Delaware Bay and River anchorage grounds.

*Anchorage 1 Bombay off Hook Point*, found in 33 CFR 110.157 (a)(2), currently has portions of the anchorage which intermittently experiences a water depth of 2 feet, which is unsafe for vessels to transit or anchor. The proposed changes would reduce the width of the anchorage to approximately 1,109 yards while extending the length to approximately 9,802 yards, thereby allowing more room for safe usable space within the anchorage.

*Anchorage 3 southeast of Reedy Point*, found in 33 CFR 110.157(a)(4), currently has portions of the anchorage in the navigational channel. Furthermore, the northern portion of the anchorage, in relation to the entrance to the Chesapeake and Delaware Canal, poses an unnecessary risk of vessel collisions due to the proximity of vessels transiting to and from the canal. The proposed changes would move this anchorage 1,573 yards south of the Chesapeake and Delaware Canal 2 light, bounding the east side of the anchorage along the west side of Reedy Island Range, and extend the anchorage south

to the southern end of Reed Island Bar. These changes would eliminate portions of the anchorage that are in the navigational channel and increase the anchorage grounds southward.

*Anchorage 6 off Deepwater Point*, found in 33 CFR 110.157 (a)(7), currently has the southern portion of the anchorage approximately 480 yards north from the Delaware Memorial Bridge, this proximity creates an unnecessary risk of a bridge allision. To mitigate this risk, the proposed changes would relocate the southern boundary of the anchorage to approximately 701 yards north of the Delaware Memorial Bridge and extend the northern portion of the anchorage where it would end opposite the channel from the entrance of the Christina River.

*Anchorage 8 off Thompson Point*, found in 33 CFR 110.157(a)(9), currently has portions of the anchorage in less than 9 feet of water, causing an unnecessary safety risk to vessels attempting to transit or anchor. The proposed changes would increase usable anchorage grounds within the anchorage by reducing the width of the anchorage to approximately 231 yards and extending the northern end of the anchorage to the edge of Crab Point.

*Anchorage 11 at Gloucester*, found in 33 CFR 110.157(a)(12), currently has the northern portion of the anchorage approximately 71 yards south of the Walt Whitman Bridge. This proximity creates an unnecessary risk of a bridge allision. The proposed changes would increase the distance of the northern portion of the anchorage to 254 yards from the Walt Whitman Bridge, reducing the risk of a bridge allision for vessels in the anchorage.

*Anchorage 12 between Gloucester and Camden*, found in 33 CFR 110.157(a)(13), currently begins south of the Walt Whitman Bridge, bordering the northern line of Anchorage 11 traveling north to the southern boundary of Anchorage 13 at Camden, NJ.

Anchorage 12 and 13 each span a bridge where anchoring a vessel is impractical and creates an unnecessary risk of bridge allision. The proposed changes would address this issue by relocating the south end of Anchorage 12 to begin 232 yards north of the Walt Whitman Bridge and relocating the northern boundary to approximately 155 yards south of the Benjamin Franklin Bridge. This would eliminate any anchorage grounds underneath the Walt Whitman Bridge and Benjamin Franklin Bridge, mitigating the unnecessary risk of a bridge allision.

*Anchorage 13*, found in 33 CFR 110.157(a)(14), currently begins on the east side of the channel adjoining and

on the upstream side of Anchorage 12, to Cooper Point, Camden. Anchorages 12 and 13 each span a bridge where anchoring a vessel is impractical and creates an unnecessary risk of bridge allision. The proposed changes above would move the south end of Anchorage 13 to begin approximately 190 yards north of the Benjamin Franklin Bridge. Anchorage 13's northern boundary would remain the same, terminating in the vicinity of Coopers Point, Camden. This would eliminate any anchorage grounds underneath Benjamin Franklin Bridge, mitigating the unnecessary risk of a bridge allision.

#### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

##### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This proposed rule is not a significant regulatory action because it would not interfere with existing maritime activity on the Delaware River. Rather, it would enhance navigational safety along the Delaware River by providing safer locations for vessels to anchor, improving navigation safety near bridges and reducing the potential for disruption to maritime traffic by anchored vessels potentially within the federal channel. Vessels may navigate in, around, and through the modified anchorages.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard 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.

The proposed rule would affect owners and operators of vessels wishing to anchor in the Delaware Bay and River anchorages. Boundaries of some of the current anchorages would be modified, reduced, or increased depending on the water depth and relation of the anchorage to bridges along the Delaware Bay and River. The impact of the proposed rule changes would be minimal because the changes increase usable anchorage grounds and enable vessels to safely anchor in the anchorage boundaries.

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.

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. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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.

##### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

##### D. Federalism and Indian Tribal Governments

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

Also, this 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

##### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves directly with establishing, disestablishing, and modifying anchorage grounds. Normally such actions are categorically excluded from further review under paragraph 34(f) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

##### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the

docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### 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, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.157 by revising paragraphs (a)(2), (4), (7), (9), and (12) through (14) to read as follows:

#### § 110.157 Delaware Bay and River.

(a) \* \* \*

(2) *Anchorage 1 off Bombay Hook Point.* On the southwest side of the channel along Liston Range, bounded as follows: Beginning at a point (approximately latitude 39°17'14" N., longitude 75°22'21" W.) bearing 170° from Ship John Shoal Light, 380 yards southwest of the southwest edge of the channel along Liston Range; thence 231°, 1,000 yards; thence 319°, 9,800 yards; thence 049°, 1,000 yards; and thence 139°, 9,800 yards, back to the beginning point. These coordinates are

based on the World Geodetic System 1984 (WGS 84) horizontal datum reference.

\* \* \* \* \*

(4) *Anchorage 3 southeast of Reedy Point.* Southeast of the entrance to the Chesapeake and Delaware Canal at Reedy Point, bounded as follows: Beginning at a point (approximately latitude 39°33'09" N. and longitude 75°32'38" W.), bearing 120°, 1,573 yards southeast from Chesapeake and Delaware Canal 2 Light, bounded on the east by the west edge of the channel along Reedy Island Range, south to a point (approximately latitude 39°31'29" N. and longitude 75°33'01" W.), thence 286°, 406 yards, thence 008°, 1,460 yards, continuing north by a line running from the last point to (approximately latitude 39°33'09" N. and longitude 75°33'10" W.), 1,817 yards, and thence 90°, 840 yards, to the point of beginning. These coordinates are based on the World Geodetic System 1984 (WGS 84) horizontal datum reference.

\* \* \* \* \*

(7) *Anchorage 6 off Deepwater Point.* East of the entrance to Christina River, bounded as follows: Beginning at latitude 39°43'00" N., longitude 75°30'20" W.; thence 106°, 966 yards; thence 214°, 1,882 yards; thence 203°, 828 yards; thence 182°, 232 yards; thence 283°, 335 yards; and thence 015°, 2,858 yards, along the east side of the Cherry Island Range, to the point of beginning. Vessels must not cast anchor in the cable area at the lower end of this anchorage except in case of emergency. These coordinates are based on the World Geodetic System 1984 (WGS 84) horizontal datum reference.

\* \* \* \* \*

(9) *Anchorage 8 off Thompson Point.* On the south side of the channel along Tinicum Range, between Thompson Point and the east side of Crab Point, bounded as follows: Beginning at a point on the south edge of the channel along Tinicum Range at longitude 75°18'23" W.; thence easterly along the edge of the channel to longitude 75°17'41" W.; thence 185°, 220 yards; thence 272°, 1,079 yards; thence 001°, 192 yards, to the point of beginning. These coordinates are based on the World Geodetic System 1984 (WGS 84) horizontal datum reference.

\* \* \* \* \*

(12) *Anchorage 11 at Gloucester.* East of the channel south of the Walt Whitman Bridge at Gloucester, bounded as follows: Beginning at a point latitude 39°54'11" N., longitude 75°07'45" W.; thence bearing 101°, 85 yards, thence 177°, 275 yards to a point latitude

39°54'03" N., longitude 75°07'41" W., along the New Jersey shore, thence 200°, 1,179 yards; thence 216°, 875 yards to a point at latitude 39°53'10" N., longitude 75°08'17" W., thence northeasterly bearing 026°, 1,006 yards, and thence 018°, 1,203 yards to the point of beginning. The area between Pier 124 S and 122 S, along the west side of the Delaware River, is restricted to facilitate vessel movements. The areas adjacent to working piers are restricted to facilitate the movement of vessels to and from these piers. Should the anchorage become so congested that vessels are compelled to anchor in these restricted areas, they must move immediately when another berth is available. These coordinates are based on the World Geodetic System 1984 (WGS 84) horizontal datum reference.

(13) *Anchorage 12 between Gloucester and Camden.* East of the channel beginning north of the Walt Whitman Bridge at Gloucester and ending south of the Benjamin Franklin Bridge at Camden, bounded as follows: Beginning at a point at latitude 39°54'26" N., longitude 75°07'41" W., bounded on the west by a line perpendicular to the channel, 210 yards from the east edge of the channel north, 5,536 yards, thence bearing 098°, 178 yards, thence 193°, 437 yards, thence 185°, 546 yards, thence 179°, 1,107 yards, thence 168°, 964 yards, thence 161°, 1,749 yards, thence 182°, 401 yards, thence 195°, 305 yards, and thence 276°, 132 yards to the point of beginning. The area between No. 2 Broadway pier and No. 1 Broadway pier is restricted to facilitate vessel movements. The areas adjacent to working piers are restricted to facilitate the movement of vessels to and from these piers. Should the anchorage become so congested that vessels are compelled to anchor in these restricted areas, they must move immediately when another berth is available. These coordinates are based on the World Geodetic System 1984 (WGS 84) horizontal datum reference.

(14) *Anchorage 13 at Camden.* East of the channel, North of the Benjamin Franklin Bridge to Cooper Point, Camden, bounded as follows: Beginning at a point latitude 39° 57'17", longitude 75°07'58", thence bearing 16°, 209 yards, thence 27°, 368 yards, thence 46°, 355 yards, thence 139°, 200 yards, thence 221°, 604 yards, thence 199°, 222 yards, and thence 287°, 147 yards to the point of beginning. These coordinates are based on the World Geodetic System 1984 (WGS 84) horizontal datum reference.

\* \* \* \* \*

Dated: June 20, 2016.

**Meredith L. Austin,**

*Admiral, U.S. Coast Guard, Commander,  
Fifth Coast Guard District.*

[FR Doc. 2016-16714 Filed 7-14-16; 8:45 am]

**BILLING CODE 9110-04-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 131**

[EPA-HQ-OW-2015-0392; FRL-9946-01-OW]

RIN 2040-AF61

**Water Quality Standards; Establishment of Revised Numeric Criteria for Selenium for the San Francisco Bay and Delta, State of California**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to revise the current federal Clean Water Act selenium water quality criteria applicable to the San Francisco Bay and Delta to ensure that the criteria are set at levels that protect aquatic life and aquatic-dependent wildlife, including federally listed threatened and endangered species. The San Francisco Bay and Delta ecosystem is at risk due to environmental degradation, including impacts from elevated levels of selenium, and state and federal actions are underway to restore the waterway. Scientific evidence indicates that elevated selenium levels can contribute to the decline of fish and aquatic-dependent birds. EPA promulgated the San Francisco Bay and Delta’s existing selenium criteria in 1992 as part of the National Toxics Rule, using EPA’s recommended aquatic life criteria values at the time. However, the latest science on selenium fate and bioaccumulation indicates that the existing criteria are not protective of aquatic life and aquatic-dependent wildlife in the San Francisco Bay and Delta. Therefore, EPA is proposing to revise the existing selenium criteria, taking into account available science, legal requirements, and EPA policies and guidance. EPA’s proposal will address the Administrator’s determination—described in this preamble—that EPA’s previously promulgated water quality criteria are

not adequate to protect the designated uses for these waters.

**DATES:** Comments must be received on or before September 13, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2015-0392, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Two public hearings will be held on Tuesday, August 23, 2016, one at 9:00 a.m. and one at 2:00 p.m., at EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Additionally, EPA will offer a virtual public hearing on the proposed rule via the internet on Monday evening, August 22, 2016 from 6:00 p.m. to 8:00 p.m. For details on these public hearings, as well as registration information, please visit: <https://epa.gov/wqs-tech/water-quality-standards-establishment-revised-numeric-criteria-selenium-san-francisco-bay>.

**FOR FURTHER INFORMATION CONTACT:** Erica Fleisig, Office of Water, Standards and Health Protection Division (4305T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 566-1057; email address: [Fleisig.Erica@EPA.gov](mailto:Fleisig.Erica@EPA.gov); or Diane E. Fleck, P.E., Esq., Water Division (WTR-2-1), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: (415) 972-3527; email address: [Fleck.Diane@EPA.gov](mailto:Fleck.Diane@EPA.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is organized as follows:

- I. General Information
- II. Background
  - A. CWA and EPA Regulations
  - B. National Toxics Rule
  - C. California Toxics Rule
  - D. State of California Actions
  - E. Applicability of EPA Promulgated Water Quality Standards When Final
  - F. Selenium Chemistry and Biology
- III. Rationale and Approach
  - A. Necessity
  - B. Administrator’s Determination of Necessity
  - C. Approach
  - D. Proposed Criteria
- IV. Implementation and Alternative Regulatory Approaches
- V. Endangered Species Act
- VI. Economic Analysis
  - A. Identifying Affected Entities
  - B. Method for Estimating Costs
  - C. Results
- VII. Statutory and Executive Orders
  - A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)
  - B. Paperwork Reduction Act (PRA)
  - C. Regulatory Flexibility Act (RFA)
  - D. Unfunded Mandates Reform Act (UMRA)
  - E. Executive Order 13132 (Federalism)
  - F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)
  - G. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)
  - H. Executive Order 13211 (Actions That Significantly Affect Energy Supply, Distribution, or Use)
  - I. National Technology Transfer and Advancement Act of 1995
  - J. Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)

**I. General Information**

*Applicability:* Entities such as industries, stormwater management districts, or publicly owned treatment works (POTWs) that directly or indirectly discharge selenium to the San Francisco Bay and Delta could be indirectly affected by this rulemaking because federal water quality standards (WQS) promulgated by EPA would be applicable to Clean Water Act (CWA) regulatory programs, such as National Pollutant Discharge Elimination System (NPDES) permitting. Citizens concerned with water quality in California could also be interested in this rulemaking. Categories and entities that could be affected include the following:

Category	Examples of potentially affected entities
Industry .....	Industries discharging pollutants to the San Francisco Bay and Delta.