



# A-NPDC

## ACCOMACK-NORTHAMPTON PLANNING DISTRICT COMMISSION

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Office of Navigation Systems  
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Attn: George Detweiler, Commandant (CG-NAV), Program Manager

July 16, 2018

RE: Anchorage Grounds; Lower Chesapeake Bay, Cape Charles, VA: Docket number USCG-2015-1118

Dear Sir,

These comments are being submitted to the docket by the Eastern Shore Regional Navigable Waterways Committee (ESRNWC). Our Committee represents the Counties of Accomack and Northampton concerning the full range of waterway issues impacting the Eastern Shore of Virginia. Our portfolio of responsibilities include, but is not limited to activities of the United States Coast Guard (USCG) and Army Corps of Engineers (ACOE), thus, we submit these comments concerning the impact to the Eastern Shore from USCG's proposed rulemaking establishing a permanent vessel anchorage off the shores of the Town of Cape Charles in Northampton County, Virginia.

In the Notice of Proposed Rulemaking (NPRM) posted on Jun 22, 2018, Federal Register Number: 2018-13439, the Coast Guard (CG) makes the statement concerning the submitted comments to the ANPRM in 2016; "*Comments submitted to the online docket and received at the public meeting aligned into five categories: Environmental concerns, local economy and tourism, safety and security compliance concerns, view shed concerns, and anchorage proponent.*" Let us address the CG responses in the NPRM to those 2016 comments along with current comments as well as those comments and responses raised during the July 10, 2018 public meetings in Cape Charles.

**A:** "*The Coast Guard has prepared a preliminary Record of Environmental Consideration (REC) for this NPRM and has made a preliminary determination that the proposed Anchorage R and new Quarantine Anchorage **do not cumulatively or individually have a significant effect on the human environment.***"

Section F of the NPRM goes on to state; "*We have analyzed this proposed rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1 (series) OM, which guides 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.**... Normally, such actions are categorically excluded from further review under paragraphs L59 (a) and L59 (b) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is 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.***"



We believe there is significant environmental impact from this proposed rule and the REC is deficient for not evaluating all the potential environmental consequences and therefore we strongly request that a full Environmental Impact Statement be conducted and concluded and provided to the public as was also recommended in the 2016 public comments to the ANPRM. This anchorage poses significant potential harm to the area well known for its commercial and recreational fishing, recreational boating, and significant aquaculture/shellfish/crabbing and tourism industries.

It is a proven fact that bacterial and viral contamination from improperly treated sewage can accumulate in shellfish and adversely affect human health. The early life stages of shellfish are exceptionally sensitive to a wide range of pollutants. Northampton County is home to a vibrant and growing shellfish industry, with a dockside value of \$56.6 million dollars in 2017, generating over \$90 million in total economic output, involving 800 jobs, and \$25 million in income. The vicinity of Cape Charles is central to the shellfish industry, with one of the largest hatcheries and over 100 shellfish leases located within three nautical miles of the proposed anchorage area.

Bacterial and viral contamination from improperly treated sewage can accumulate in the shellfish and adversely affect human health. Closure of these areas to harvest, even temporarily due to bacterial contamination can have very negative impacts on the industry and the economy of the County.

There have been six closures of the Cape Charles Beach since the Coast Guard established this vessel anchorage just off the shore of the town of Cape Charles. There had been no similar closures in the previous year's going back to 2004. These closures not only portend dire consequences for the shellfish industry in the area, but also the growth of Northampton County and Town of Cape Charles which has expended considerable funds and effort to grow a vibrant tourism economy which necessitates clean water for swimming, fishing, and boating, which amounted to almost \$78 million for Northampton County in 2016 and employed approximately 820 individuals in the County.

The July 13<sup>th</sup> edition of the Eastern Shore Post reporting on the July 10<sup>th</sup> USCG meetings in Cape Charles contained the following information; *(Captain) Carroll stated that by law, when ships are three miles off the Chesapeake Bay boundary line, the valves that would release sewage must stay locked. It was not until late in the meeting, nearly an hour past its scheduled end time that Carroll openly admitted the Chesapeake Bay is not a no-discharge zone and ships are permitted to discharge treated sewage.*

Even with modern sewage treatment systems and oil water separators for pumping bilges, vessels have been known to illegally bypass systems which has led to pollution/contaminants entering US waterways. Since 2005, there have been 6,238 mystery oil spills (averaging 567/year) totaling 292,396 gallons (averaging 26,582 gallons/year). *Mystery* spills are spills from unknown or unidentified sources. U.S. Coast Guard investigators are unable to identify the vessel or facility that spilled the oil into U.S. navigable waters.

Thus, the livelihood of approximately 1,620 employees in the shellfish and tourism industries in Northampton County, which is approximately 34% of the total County employment, may be negatively impacted from environmental consequences arising from the potential thirty-seven (37) anchorage berths off of Cape Charles.

In addition to the bacterial closures of the beaches, Cape Charles has been experiencing small macerated pieces of plastic on their beach that has never been an issue previously prior to the vessels anchoring off the Cape Charles shore.



Ballast water discharges by large ships can have a negative impact on the marine environment. The majority of the vessels using this anchorage are dry bulk carriers which utilize large volumes of ballast water to achieve a deeper draft when unloaded to maintain stability and seaworthiness. Ballast is taken aboard in the cargo discharge port. The vessel is supposed to by regulation, exchange the ballast water outside of the US EEZ which is at least 200 miles off the US coast, then discharge that ocean water overboard at the loading port. These vessels usually are loading cargo in the Hampton Roads area so they will be discharging their ballast water here in the Hampton Roads area. Ballast discharges typically contain a variety of biological materials, including plants, animals, viruses, and bacteria. These materials may include non-native, nuisance, invasive, exotic species that can cause ecological and economic damage to aquatic ecosystems along with human health problems.

The REC is deficient since it does not address ship origin pollutants, including out of the area ballast waters and the consequences to the health and safety arising from those pollutants for the public swimming in the waters off of Cape Charles from the finding of high levels of toxic and fecal bacteria in the water, which at high concentrations, if ingested while swimming, or entering the skin through an open cut, can cause human disease, infections or rashes. These same bacteria are a prime culprit in the contamination in shellfish that, when eaten, causes diarrhea, vomiting and abdominal pain. In rare cases, people have died from contracting lethal septicemia. The REC does not speak to any of this.

Whereas, the REC does mention the endangered Atlantic sturgeon and concludes, *“There is final designated critical habitat for this species. The proposed Cape Charles Anchorage area is outside the critical habitat.”* It is true that the NOAA 2017 designated critical habitat areas are in the Bay tributaries where the sturgeon spawn and live the early part of their lives in those tributaries, however, the sturgeon then move out into the Bay and coastal environs to live. There is no evaluation in the REC concerning the sturgeon impact in the Bay from vessel anchors and the scouring action of those anchors on the bottom where the sturgeon live. It is insufficient to state that this area is not a designated critical habitat without further evaluation of the anchorage location impact on what is also sturgeon habitat. Under **section 7 federal agencies must consult with NOAA Fisheries when any action the agency carries out, funds, or authorizes may affect either a species listed as threatened or endangered under the Endangered Species Act (ESA)**, or any critical habitat designated for it. This consultation is not limited only to designated areas of critical habitat.

The REC states; *“The USCG has determined that this proposed anchorage will have no effect on species listed under the Endangered Species Act. This determination was made based on the lack of available baseline data for the impacts of ships anchoring.”* NOAA is currently funding a project that is investigating the effects of anchor scarring on the bottom dwelling sturgeon in the Hudson River, at this time, NOAA does not yet have a report for the project.

The Chesapeake Bay is a prolific environ for the Blue Crab. The anchorage area is in an area where commercial crabbing occurs. The female/sooks migrate from the Northern Bay to the lower Bay to spawn. The crabs then lie dormant in the lower Bay mud in large concentrations during the winter months. The REC does not even address the potential negative environmental consequences concerning potential ship origin pollutants and a concentration of vessel anchors in the 18 square miles of the anchorage, scouring the bottom in the anchorage area on the Blue Crab population or the commercial fishermen that crab that area.

We would like to reference herein the Virginia Department of Environmental Quality comment letter dated July 10, 2018 which states, *“It is DEQ’s opinion that this project would be classified as a federal agency*

activity' which is reasonably foreseeable effects on Virginia's coastal resources or uses and therefore, requires the submission of a federal consistency determination by the US Coast Guard."

**Therefore, with all of the aforementioned issues, we find the REC deficient in scope and inadequate in compliance with NEPA and demand a full Environmental Impact Statement be conducted and completed.**

**B:** "Foreign-flagged vessels are subject to Port State Control examinations to ensure compliance with applicable marine pollution, sewage, waste, and safety and security laws and regulations. Additionally, under current COTP procedures, Sector Hampton Roads has instituted a random and unannounced spot check program for any vessel, foreign or U.S. flagged, anchored off of Cape Charles to ensure regulatory compliance."

- What **specific enforcement procedures** has the COTP Sector Hampton Roads instituted pursuant to "a random and unannounced spot check program for any vessel, foreign or US flagged, anchored off of Cape Charles to ensure regulatory compliance"?
- What is the **percentage (%) of random and unannounced spot checks**? Can the USCG provide the inspection records and the percentage of vessels at the anchorage that were spot checked from all the vessels that have been anchored during the past 2 years?
- The proposed anchorage shows anchorages for thirty-seven (37) vessels. How many of those 37 vessels **on a daily basis will undergo random spot or unannounced inspections**? Specifically what are the specific inspection actions that USCG boarding personnel take to ensure vessel compliance "with applicable marine pollution, sewage, waste, and safety and security laws and regulations?"
- Do USCG boarding officers take **effluent samples for on shore analysis to verify the proper functioning of the Marine Sanitation Devices** on these vessels? If so, can USCG provide those sampling records to date and the results?
- If the Commonwealth of Virginia designates the Cape Charles anchorage as a no discharge zone, what would be the USCG random and unannounced spot check program to enforce the no discharge zone requirements? Will USCG **inspect the vessel piping systems and overboard discharge valves to ensure there are no by-passes or overboard discharge valves open** that should be closed? What will be the mechanism that USCG will employ to provide periodic vessel inspection documentation to the Town of Cape Charles and or Northampton County as to the results of the USCG vessel inspection program and findings?

**C:** Under 33 CFR 110.168(c) (8) and (9), the COTP may prescribe specific conditions for vessels preventing them from being in a dead ship status, (that is, control unavailable for normal operations) while in an anchorage ground, without prior approval of the COTP. Under § 160.216 of this chapter, vessels experiencing casualties, such as main propulsion, main steering or anchoring equipment malfunction, or which are planning to perform main propulsion engine repairs or maintenance, must immediately notify the Coast Guard COTP. Under § 160.111 of this chapter, the Coast Guard COTP may direct a vessel to depart the anchorage during periods of severe weather or at other times as deemed necessary in the interest of port safety. During these adverse weather conditions, under § 110.168(c)(8) and (9) of this chapter the vessel operator in an anchorage ground must comply with all severe weather precautionary measures



*directed by the COTP to include but not limited to having additional anchors ready for letting go and standing a continuous and live anchor watch.*

The above statement in the NPRM is responding to concerns addressed in the 2016 comments to the ANPRM. These assurances from USCG as to what the rules are is comforting, except specific rules are not sufficient if enforcement is not evident. These same rules were in effect in 2014, yet the vessel *Ornak* laying at anchor in the Lynnhaven anchorage found itself dragging its anchor in heavy winds, it was unable to establish propulsion and steerage, which resulted in its grounding on the beach.



All the aforementioned regulations and authority of the COTP failed to prevent this casualty in 2014. Why should the residents and visitors of the Town of Cape Charles and Northampton County take comfort in the assurances of the USCG that this type of incident will not occur off of Cape Charles where the ramifications from a grounding could be catastrophic?

**USCG needs to develop a specific Anchorage Management Plan to be made available for public comment as part of this rulemaking and part of the anchorage regulation.**

The Anchorage Management Plan should be made an integral part of the final regulation with the anchorage regulatory requirements being published in the *Coast Pilot* and should include general regulations for the use of the anchorage and should include, but not be limited to the following:

- Anchorage management use restrictions concerning severe weather conditions as to requirement to enter or depart the anchorage.
- Notify the USCG prior to arriving at the anchorage. This notification shall include the estimated time of arrival (ETA), intended length of time that the vessel will be at the anchorage and the reason for anchoring. No vessel may anchor unless it notifies the USCG Captain of the Port when it anchors, of the vessel's name, length, draft, and its position in the anchorage.
- Notify the USCG of any change as to this intention, including changes of the estimated time of arrival (ETA) at the anchorage.
- The USCG, to the best of its ability with information provided, will notify the anchorage intended vessel of other vessels that are in the anchorage and their estimated time of departure (ETD), other vessels bound for the anchorage, current limitations of the intended anchorage and any other possible conflicts with this intention.
- No vessel may remain at anchor in any anchorage covered by this section longer than 48 hours unless receiving a waiver from USCG Captain of the Port. Authority to anchor for more than 48 hours

may be given upon application to the USCG Captain of the Port; however, extensions are limited on a maximum 24 per hour basis (**See Note concerning other major port anchorage time limits**).

- No vessel may anchor in the anchorage that has machinery or hull damages that may incapacitate the vessel operationally or have the potential for pollution without permission from the USCG Captain of the Port, Sector Hampton Roads
- All vessels while at anchor within the Cape Charles anchorage shall comply with the following:
  - No vessel may anchor unless it maintains a bridge watch, continuously monitors and answers Channel VHF 14 and 16, and continuously monitors its anchored position to promptly detect anchor dragging
  - All vessels shall display the appropriate anchoring lights at night and during periods of low visibility while at anchor
  - Be prepared to get underway as directed by USCG Captain of the Port, Sector Hampton Roads
  - No vessel may anchor in a “dead ship” status (propulsion or control unavailable for normal operations) without the prior approval of the USCG Captain of the Port and must have propulsion machinery available within 30 minutes in case of anchor dragging or other situation.
  - During vessel emergencies which would include but not be limited to dragging anchor or machinery failure during storm or uncontrollable events, causing the ship failure to get underway, the vessel's Master and or ship's agent shall **immediately notify** the USCG and local community response officials as to the plans and activities being made to resolve the incident before collision with any other vessel, allision with any structure or grounding on a shoal or beach head inside or outside the USCG anchorage.
  - Update the USCG of any changes as to the vessel's ETD from the anchorage.
  - Insure that the vessel's AIS is turned on, operating and transmitting properly while underway and at anchor.
  - No vessel shall be permitted to conduct over water lightering, bunkering operations or lube oil transfers at the Cape Charles anchorage
  - No vessel shall be permitted to discharge any ballast water in the Cape Charles anchorage
  - Each vessel anchored is located in a no-discharge zone which means that it is illegal to discharge on-board sewage into the designated waterbody which includes treated sewage, as well as untreated sewage as well as any solid wastes and ballast water.
  - Tugs with barges shall be in attendance of their tows or barges. Any towing vessel that is departing, but leaving its tow at anchor in any anchorage, shall inform the USCG Captain of the Port of the estimated time of returning to the barge, continuously monitor VHF Channel 14 and 16, and by any means appropriate monitor the position and status of the tow.
  - All vessels leaving anchorage shall inform the USCG Captain of the Port when it weighs anchor.



**Note Other Major Port Anchorage Time Limits: 33 CFR Part 110.155: Sector New York** anchorage time limits range from **48 hours up to but not exceeding 96 hours** dependent upon the anchorage location and **33 CFR Part 110.157 Sector Delaware Bay and River** anchorage regulations states; *No vessel shall occupy any prescribed anchorage for a longer period than 48 hours without a permit from the Captain of the Port. Vessels expecting to be at anchor for more than 48 hours shall obtain a permit from the Captain of the Port for that purpose. No vessel in such condition that it is likely to sink or otherwise become a menace or obstruction to navigation or anchorage of other vessels shall occupy an anchorage except in an emergency, and then only for such period as may be permitted by the Captain of the Port.* **33 CFR Part 110.168 Sector Hampton Roads, Virginia and adjacent waters** anchorage regulations state; *except as otherwise provided, a vessel may not occupy an anchorage for more than 30 days, unless the vessel obtains permission from the Captain of the Port.*

In 2007, USCG Sector NY reduced the maximum time limit in New York Harbor anchorages from 30 days to maximum 96 hours in order to ensure the proposed revisions would increase the availability of anchorage space by reducing the amount of time that a vessel may remain at anchor by limiting the number of vessels from loitering in anchorages. The revised rule established a 96-hour limit on the duration of stay for vessels anchoring in most of the Federal Anchorage Grounds. The previous rule established an impractical anchorage duration of 30 days. It should be noted that the 48-hour limit for anchoring in some of the other NY Harbor anchorages remained the same at 48 hours.

**Therefore, it is our position that the current USCG intentions not to reduce the 30 days and place a maximum 48-96 hour limit on vessels at anchor off of Cape Charles, fosters inefficiencies in the use of anchorages by vessel owner/operators, ships agents and docks, thus allowing more vessels to be anchored then necessary if proper anchor management by USCG is followed and placing significant potential burdens on the Town of Cape Charles and Northampton County. Strict time limits on anchorage use would lead to significant reductions in the vessels allowed to be anchored and force efficiencies in the marine transportation system, thus, USCG should put in the anchorage regulation a requirement that a maximum 48 hours a vessel may occupy a berth in the Cape Charles anchorage and reduce the 37 berths to maximum 20.**

*D: Although boaters would be allowed to fish in the proposed anchorage ground, we would strongly discourage crab pot fishing as we would around any places vessels anchor because lines may get caught or cut by the anchors and propellers of vessels anchoring. Mariners deciding to fish in the anchorage ground would do so at the risk of their lines or other fishing gear getting snagged or cut by anchor lines or propellers.*

The Cabbage Patch, which is the area where this anchorage is being located is a traditional, very prolific recreational and commercial fishing area important to the economy of the Town of Cape Charles and Northampton County. Fishermen from the VA Beach and other areas across the Bay travel to this location as well to take advantage of the drum and cobia fishery. Why does USCG minimize the dislocation impact to the crabber attempting to make a living, as well as inserting large commercial vessels in an area which is populated with small recreational fishing boats that will increase the potential for large vessel small boat collisions, injuries and potential fatalities? USCG has not evaluated on an equal footing the impact on the small boat commercial and recreational fleet versus the evaluation only on large commercial cargo vessels.

**USCG shall include an evaluation of the negative impact to commercial and recreational fishing and crabbing in the anchorage area.**

**E:** *This regulatory action determination is based on the size, location, and historical vessel traffic data pertaining to the proposed anchorage locations. The regulation would ensure approximately 18 square miles of anchorage grounds are designated to provide a necessary commercial deep draft anchorage and enhance the navigational safety of large naval and commercial vessels transiting within the lower Chesapeake Bay. In reviewing historical Automated Information System (AIS) track line data of vessel transits, the proposed Anchorages Quarantine and R areas are safe locations for vessels to anchor in a minimally trafficked section of the Chesapeake Bay while maintaining a more appropriate safe distance from shore.*

The above USCG analysis of the traffic in the anchorage area is based only upon a large vessel traffic analysis. It does not address the small commercial or recreational boat traffic in the area. Small commercial fishing and recreational boats do not have AIS and therefore USCG has no ability whatsoever to track the volume nor the disruption that this anchorage has and will cause small commercial fishing and recreational boats that are prevalent in this anchorage area, therefore, this USCG analysis is one sided from only a large cargo commercial vessel perspective and does not accurately account for the full range of all rightful users of this waterway. USCG must re-evaluate the anchorage area taking into account all vessel traffic in this area. For a small Eastern Shore town where the Federal government, e.g., USCG, designates 18 square miles of waters right off the beach of the town that depends upon commercial fishing, crabbing and recreational boating for residents and visitors, those 18 square miles will have a significant economic impact on the small entities and the overall economy of the Town and County.

**F:** *The NPRM discussion includes this statement: **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.***

*While some owners or operators of vessels intending to use the anchorage may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator. The towns and communities along the western coast of Eastern Shore of Virginia have an economy based on tourism and numerous small entities and businesses. The anchorage will regulate and move vessels who are currently anchoring in the general vicinity away from the shore and beaches, lessening impacts these small entities may currently experience.*

***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 explaining why you think it qualifies and how and to what degree this rule would economically affect it.***

The Town of Cape Charles and Northampton County in this area has numerous small entities that will be significantly impacted by this rulemaking and it would appear that USCG paid little attention and made



minimal effort to determine who the small entities are and the economic impact this rulemaking will have on these small entities.

The population of the Town of Cape Charles is approximately 1,010 individuals, far below governmental jurisdictions with populations having less than 50,000, thus is considered a small entity.

The population of Northampton County, VA is approximately 12,140 individuals, significantly below governmental jurisdictions with populations having less than 50,000, thus is considered a small entity.

Within the town boundaries and the surrounding area of Cape Charles, the small entities that will be negatively impacted by this anchorage, and include but not limited to:

- Hotels
- Camping Grounds
- B&B's
- Individually owned residential rental units
- Restaurants
- Various shops/merchants
- Waterfront Golf Courses
- Charter Fishing Boats
- Commercial Crabbers/Watermen
- Aquaculture
- Marinas/Boat Yards/Tackle Shops

All of the above are independent small businesses that are considered small entities. USCG has not discussed the economic impact with any of these small entities and has only made a generalized blanket statement without performing any due diligence to verify that; ***“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.”***

**Therefore, it is our position that USCG has not sufficiently evaluated the negative economic impact that this anchorage will have on all of these shore-side and on water independently owned small entities due to potential loss of tourism revenues, loss of shellfish and clean water for swimming and beaches from ship origin pollution as well as the practical loss of 18 square miles of prime fishing grounds.**

It is our position that USCG needs to comply with the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, which requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking which it obviously has failed to do so in this NPRM.

**G:** The NPRM does not address comments made to the ANPRM concerning local USCG resources necessary to ensure vessel compliance with regulatory requirements or emergency response, e.g., *Providing Cape Charles USCG small boat station with additional oil spill response resources and sufficient resources for enhanced monitoring of the anchorage area with waterborne patrols.*

Referencing comments herein as stated in **B** and **C**, USCG does not address any enhancement plans for USCG Station Cape Charles resources which are needed to ensure enforcement for regulatory compliance for pollutant discharges, e.g., raw or treated sewage/grey water, oil/water separator discharges and compliance with vessel operational requirements when at anchor.

The NPRM does not address the necessary response resource requirements related to non-tank vessel oil spill responses and what necessary steps USCG is taking to enhance USCG Station Cape Charles ability to respond to a non-tank vessel spill.

### **33 CFR 155.5050 Response plan development and evaluation criteria for non-tank vessels carrying groups I through IV petroleum oil**

(f) Worst case discharge (WCD). The owner or operator of a non-tank vessel with a capacity of 2,500 barrels (105,000 gallons) or greater carrying groups I through IV petroleum oil as fuel or cargo must identify in the VRP and ensure the availability of, through contract or other approved means, the response resources necessary to respond to discharges up to the worst case discharge (WCD) volume of the oil to the maximum extent practicable. For the purposes of meeting the requirements of this paragraph, vessel owners or operators must meet 33 CFR 155.1050(f). Non-tank vessels need only plan for Tier 1 response resources.

Table 155.5050(g) - Response Times for Tier 1: All other operating environments, including rivers and canals, inland, nearshore, offshore, and open ocean areas: **24 hours**

As an oil spill responder that has responded to approximately 100 oil spills, most as a Responsible Party Incident Commander, and as the individual that represented the American Petroleum Institute in the early 90's on the USCG Reg-Neg Committee developing OPA'90 oil spill response regulations, and having testified to Congressional Committees on oil spill response issues; oil spilled from any of these vessels at the anchorage, with the prevailing wind and currents, could see oil on the Cape Charles/Northampton County shoreline relatively quickly. Theoretically, oil spilled on the water surface will move 100% with the speed of the current and in the currents direction, and 3% of the wind speed in the direction of the wind, thus, a 12 mph wind out of the west will theoretically move the oil towards shore at a speed of .36 mph, reaching shore in less than 3 hours, not including the current velocity impact which could reduce the shoreline impact timeline significantly.

The nearest Oil Spill Removal Organization (OSRO) in the Norfolk area, travel time (35 mph = 1.25 hours) over the road, resource recall and mobilization time (2.5 hours) would theoretically arrive earliest almost 4 hours after notification. Waterborne response resources from the Norfolk area is calculated at 5.75 mph = 7.75 hours + 2.5 hours mobilization/recall for a total of 10.25 hours to arrive on scene, thus, for both scenarios, oil could already be on the shoreline. Of course, the regulatory requirement to respond to an oil spill at the Cape Charles anchorage which is only 3 miles offshore, is 24 hours.

No matter how the USCG evaluates the potential oil spill impact on Cape Charles, privately owned vessel contracted response resources which each vessel must comply with pursuant to the regulatory requirements, even though in compliance with regulatory requirements, are in reality, insufficient due to the time and distances involved, therefore, it is critical to have USCG Station Cape Charles adequately staffed



and equipped to be the 1<sup>st</sup> responders to an oil spill at the anchorage until privately owned and contracted response resources arrive on scene.

**Therefore, it is necessary for USCG to specifically advise the public as to the arrangements that will be made for USCG assure the public that USCG Cape Charles will be properly staffed and equipped on a long term sustainable basis, to perform daily anchorage patrols, daily unannounced boarding inspections and initial oil spill response.**

Respectfully Submitted,

*John Joeckel*

John Joeckel, Chairman, Eastern Shore Regional Navigable Waterways Committee

CC: Governor Ralph Northam  
Senator Tim Kaine  
Senator Mark Warner  
Congressman Scott Taylor  
Senator Lynwood Lewis  
Delegate Rob Bloxom  
Supervisor Spencer Murray, Chairman Northampton County Board of Supervisors  
Supervisor Robert Crockett, Chairman Accomack County Board of Supervisors