



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2016-0897]

RIN 1625-AA01

Anchorage Ground; Atlantic Ocean, Jacksonville, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend its anchorage regulations to establish a new offshore anchorage area approximately 7 nautical miles northeast of the St. Johns River inlet, Florida. Currently, there is not a dedicated deep draft offshore anchorage for commercial ocean-going vessels arriving at the Port of Jacksonville. Establishing an adequate and dedicated offshore anchorage will alleviate hazardous conditions with vessels anchoring in the common approaches to the St. Johns River. This action is necessary to ensure the safety and efficiency of navigation for all vessels transiting in and out of the Port of Jacksonville. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0897 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 proposed rulemaking, call or email Lieutenant Allan Storm, Sector Jacksonville, Waterways Management Division, U.S. Coast Guard; telephone 904-714-7616, email Allan.H.Storm@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

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

The Coast Guard, with the recommendation from the St. Johns Bar Pilot Association (SJBPA) and Jacksonville Marine Transportation Exchange (JMTX) Harbor Safety Committee, developed the dedicated offshore anchorage area approximately 7 nautical miles northeast of the St. Johns River inlet, Florida proposed in this notice of proposed rulemaking (NPRM).

The purpose of this proposed rulemaking is to improve the navigational safety, traffic management and port security for the Port of Jacksonville.

Currently, there is not a dedicated deep draft offshore anchorage for commercial ocean-going vessels arriving at the port of Jacksonville. Vessels have routinely been recommended to anchor 1 and 1/2 nautical miles northeast of the “STJ” entrance buoy. However, many mariners are hesitant to anchor in this location due to its proximity to the charted danger area, which is related to unexploded ordinances on the sea floor. Without a designated charted anchorage area, many vessels end up drifting or anchoring in the common approaches to the St. Johns River, creating a potential hazardous condition for all vessels transiting in and out of the Port of

Jacksonville. These conditions may worsen with the expected growth in the number of vessels, and the likelihood of large vessels calling on Jacksonville in the near future.

In 2013, Coast Guard Sector Jacksonville hosted a meeting to discuss the establishment of a commercial anchorage off the entrance to the St. Johns River. Members from SJBPA, JMTX, Jacksonville Port Authority, Florida Docking Masters, Army Corp of Engineers, NOAA, local tug companies, and the local Shrimp Producers Association all provided input to the proposed anchorage outlined in this notice. Additionally, in April 2016, Coast Guard Sector Jacksonville conducted a focused Waterways Analysis and Management System (WAMS) study for the proposed offshore anchorage area. No additional findings were found and no comments of concern were received from this WAMS study.

The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

### **III. Discussion of Proposed Rule**

The Coast Guard proposes to amend its anchorage regulations to establish an offshore anchorage area approximately seven nautical miles northeast of the St. Johns River inlet, Florida. There currently is not a dedicated deep draft offshore anchorage for commercial ocean-going vessels arriving at the port of Jacksonville. This action is necessary to ensure the safety and efficiency of navigation for all vessels transiting in and out of the Port of Jacksonville. The anchorage area's dimensions are approximately three nautical miles by two nautical miles and would encompass approximately six square nautical miles.

The anchorage boundaries are described, using precise coordinates, in the proposed regulatory text at the end of this notice.

### **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 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

This regulatory action determination is based on the fact that there will be minimal impact to routine navigation because the proposed anchorage area would not restrict traffic as it is located well outside of the established navigation channel. Vessels would still be able to

maneuver in, around, and through the anchorage.

### 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.

While some owners or operators of vessels intending to transit the anchorage area 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.

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 (Public Law 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 establishing one offshore anchorage ground; the overall size of the anchorage area will be approximately 6 square nautical miles. The anchorage ground is not designated a critical habitat or special management area. 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 website'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. Add § 110.184 to read as follows:

**§ 110.184 Atlantic Ocean, Offshore Jacksonville, FL.**

(a) **The anchorage ground.** All waters of the Atlantic Ocean encompassed within the following points: starting at Point 1 in position 30°29.08'N, 81°18.21'W; thence south to Point

2 in position 30°26.06'N, 81°18.21'W; thence east to Point 3 in position 30°26.06'N, 81°16.05'W; thence north to Point 4 in position 30°29.08'N, 81°16.05'W; thence west back to origin. All coordinates are North American Datum 1983.

(b) The regulations. (1) Commercial vessels in the Atlantic Ocean in the vicinity of the Port of Jacksonville must anchor only within the anchorage area hereby defined and established, except in cases of emergency.

(2) Before entering the anchorage area, all vessels must notify the Coast Guard Captain of the Port (COTP) Jacksonville on VHF-FM Channel 22A.

(3) All vessels within the designated anchorage area must maintain a 24-hour bridge watch by a licensed or credentialed deck officer proficient in English, monitoring VHF-FM channel 16. This individual must confirm that the ship's crew performs frequent checks of the vessel's position to ensure the vessel is not dragging anchor.

(4) Vessels may anchor anywhere within the designated anchorage area provided that: such anchoring does not interfere with the operations of any other vessels currently at anchorage; and all anchor and chain or cable is positioned in such a manner to preclude dragging.

(5) No vessel may anchor in a "dead ship" status (that is, propulsion or control unavailable for normal operations) without the prior approval of the COTP Jacksonville. Vessels experiencing casualties such as a main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion engine repairs or maintenance, must immediately notify the COTP Jacksonville on VHF-FM Channel 22A.

(6) No vessel may anchor within the designated anchorage for more than 72 hours without the prior approval of the COTP Jacksonville. To obtain this approval, contact the COTP Jacksonville on VHF-FM Channel 22A.

(7) The COTP Jacksonville may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety or security.

(8) Commercial vessels anchoring under emergency circumstances outside the anchorage area must shift to new positions within the anchorage area immediately after the emergency ceases.

Dated: April 27, 2017

S. A. Buschman,  
Rear Admiral, U.S. Coast Guard,  
Commander, Seventh Coast Guard District.

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