



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2015-0549]

RIN 1625-AA01

Anchorage Grounds; Galveston Harbor, Bolivar Roads Channel, Galveston, Texas

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a new anchorage area, Anchorage Area Alpha (A) East in Bolivar Roads near Galveston, Texas. The establishment of this additional anchorage area would enhance navigational safety, support regional maritime security needs, and contribute to the free flow of commerce in the Houston-Galveston area. 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 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2015-0549 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 Commander (LCDR) Navin Griffin,

Sector Houston-Galveston, U.S. Coast Guard; telephone (281) 464-4736, e-mail  
Navin.L.Griffin@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 legal basis and authorities for this notice of proposed rulemaking are found in 33 U.S.C. 471, 1221 through 1236; 33 CFR 1.05-1, Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorages.

After extensive discussion, including the observations of and comments from various members of the port community, the Coast Guard has determined that the establishment of Anchorage Area (A) East in the Bolivar Roads area is necessary to address port security, port congestion, and navigation safety concerns. The proposed anchorage area was once an area utilized for spoils from dredging and is equipped to safely receive deep draft vessels. This proposed anchorage is primarily intended as an overflow anchorage for vessels that are awaiting an exam or inspection. We are proposing to amend 33 CFR 110.197 to establish Anchorage Area (A) East in order to increase the safety of life and property on navigable waters, improve the safety of vessels operating, transiting, or anchored and moored in the vicinity, and provide for the overall safe and efficient flow of vessel traffic and commerce in the area.

The Coast Guard has ascertained the view of the Galveston, TX District and Division Engineer, Corps of Engineers, U.S. Army, about the specific provisions of this proposed rule.

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

The Coast Guard is proposing to establish a new anchorage area to be known as Anchorage Area Alpha (A) East. This anchorage area would be located in the Galveston Harbor and Bolivar Roads Channel, TX, just east and adjacent to established Anchorage Area (A) in 33 CFR 110.197(a)(1). The boundaries of Anchorage Area Alpha (A) East are presented in proposed § 110.197(a)(4) in the regulatory text at the end of this document. The anchorage area would be approximately 0.19 square miles.

Proposed Anchorage Area (A) East is intended for temporary use by vessels of all types. Vessels will be allowed to occupy the anchorage areas during a wide range of conditions and for a broad variety of purposes. For example, vessels would be allowed to anchor temporarily while taking on stores, transferring personnel, or engaging in bunkering operations. Vessels would also be allowed to use anchorage areas while awaiting weather and other conditions favorable to resuming their voyage. However, it is to be emphasized that this anchorage is primarily intended as an overflow anchorage for vessels that are awaiting an exam or inspection. Vessels would not be allowed to anchor so as to obstruct the passage of other vessels proceeding to and from anchorage spaces. Anchors would not be placed in the channel and no portion of the hull or rigging would be allowed to extend outside the limits of the anchorage area.

Whenever the maritime or commercial interests of the United States so require, the Captain of the Port Houston-Galveston or his designated representative may direct the

movement of any vessel anchored or moored within the anchorage areas.

#### **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 and we discuss First Amendment rights of protestors.

##### **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 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the location and size of the proposed anchorage grounds, as well as, historical automatic identification system (AIS) data. The impacts on routine navigation are expected to be minimal because the proposed anchorage area is located outside of the established navigation channel. When not occupied, vessels would be able to maneuver in, around, and through the anchorage. Operators on our end maneuvering their vessels around the limits of the proposed anchorage area would not be significantly impacted.

##### **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 number of small entities impacted and the extent of the impact, if any, is expected to be minimal. The anchorage area is located in an area of Bolivar Roads that is not a popular or productive fishing location. Further, the location is in an area not routinely transited by vessels heading to, or returning from, known fishing grounds. Finally, the anchorage is located in an area that is not currently used by small entities, including small vessels, for anchoring due to the depth of water naturally present in the area.

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 the establishment of a permanent anchorage area in Bolivar Roads near Galveston, Texas. 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.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### **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, visit <http://www.regulations.gov/privacyNotice>.

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. In § 110.197, add new paragraph (a)(4) to read as follows:

**§ 110.197 Galveston Harbor, Bolivar Roads Channel, Texas.**

(a) \* \* \*

(4) Anchorage Area (A) East. The waters bounded by a line connecting the following points:

<b>Latitude</b>	<b>Longitude</b>
29°21'5.87"N	094°42'52.7"W
29°20'53.99"N	094°42'7.13"W
29°20'45.31"N	094°42'37.75"W
29°20'39.16"N	094°42'7.81"W

and thence to the point of beginning. The coordinates are based on NAD 83.

\* \* \* \* \*

David R. Callahan,  
Rear Admiral, U. S. Coast Guard,  
Commander, Eighth Coast Guard District.

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