



9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

**[Docket Number USCG-2017-1125]**

**RIN 1625-AA01**

**Anchorage Grounds; Saint Lawrence Seaway, Cape Vincent, New York**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

---

**SUMMARY:** The Coast Guard proposes to establish at the request of the Saint Lawrence Seaway Development Corporation, two separate anchorage grounds, Carleton Island Anchorage and Tibbetts Point Anchorage, near Cape Vincent, New York. The Federal Anchorage Ground designations will enable a pilot to disembark a safely anchored vessel which will help reduce pilot fatigue, increase pilot availability, and reduce costs incurred by vessels transiting the Seaway. 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 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2017-1125 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 Jason Radcliffe, Ninth District, Waterways Operations, U.S. Coast Guard; telephone 216-902-6060, email [jason.a.radcliffe2@uscg.mil](mailto:jason.a.radcliffe2@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
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

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

The Coast Guard proposes to establish two anchorage grounds one in the vicinity of Carleton Island, New York and the second near Tibbetts Point, New York. Each area has historically been used as an anchorage and the Saint Lawrence Seaway Development Corporation, at the request of its waterway users, has requested each area to be officially designated as Federal Anchorage Grounds.

Without this designation, pilots who anchor a ship in the respective areas are unable to disembark during sustained delay periods which hinder compliance with rest requirements and complicate pilot availability and logistics for other vessels. 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 is proposing to establish two new anchorage areas to be known as Carleton Island Anchorage and Tibbetts Point Anchorage.

The Carleton Island Anchorage would be located just northeast and adjacent to Carleton Island and Millen Bay. The boundaries of Carleton Island Anchorage are presented in the proposed regulatory text at the end of this document. The anchorage would be approximately .75 square miles. Proposed Carleton Island Anchorage is primarily intended for use by up-bound inland or ocean going bulk freight and tank ships, towing vessels and barges that need to anchor and wait for the availability of a Lake Ontario Pilot. Under this proposed rule no anchors would be allowed to 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.

The Tibbetts Point Anchorage would be located just west and adjacent to Tibbetts Point and Fuller Bay. The boundaries of Tibbett's Point Anchorage are presented in the proposed regulatory text at the end of this document. The anchorage would be approximately 1.5 square miles. Proposed Tibbett's Point Anchorage is primarily intended for use by down-bound inland or ocean going bulk freight and tank ships, towing vessels and barges that need to anchor and wait for the availability of a River Pilot. Under this proposed rule no anchors would be allowed to 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 Saint Lawrence Seaway Development Corporation or their designated representative may direct the movement of any vessel anchored or moored within the anchorage area. The Coast Guard has ascertained the view of the Buffalo, New York District and Division Engineer, Corps

of Engineers, U.S. Army, about the specific provisions of this proposed rule.

#### **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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

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, the NPRM has not been reviewed by the Office of Management and Budget, and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

We conclude that this proposed rule is not a significant regulatory action based on the location and size of the proposed anchorage grounds, as well as the historical automatic identification system (AIS) data. The impacts on routine navigation are expected to be minimal because the proposed anchorage grounds are located outside the navigational channel. When not occupied, vessels would 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.

The number of small entities impacted and the extent of the impact, if any, is expected to be minimal. The anchorage area is not routinely transited by vessels heading to, or returning from, known fishing grounds. It is also not 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 Directive 023-01, 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. This proposed rule involves the establishment of a permanent anchorage near Carleton Island, New York. Normally such actions are categorically excluded from further review under paragraph L59(a) 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.

#### 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.

We do not plan to hold a public meeting. You may submit a request for a public meeting by contacting Lieutenant Radcliffe under the **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid in this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### **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 § 110.209 to read as follows:

**§ 110.209 Saint Lawrence Seaway Anchorages, NY.**

- (a) *Carleton Island Anchorage*; Saint Lawrence River, Cape Vincent, New York.

- (1) *Carleton Island Anchorage Area*. The waters bounded by a line connecting the following points, beginning at 44°11'57.11" N, 076°14'04.62" W; thence to 44°11'21.80" N, 076°14'05.77" W; thence to 44°11'34.07" N, 076°15'49.57" W; 44°11'35.35" N, 076°16'47.50" W; 44°11'43.49" N, 076°16'48.00" W; 44°11'57.11" N, 076°14'04.62" W and back to the beginning point. These coordinates are based on WGS 84.

- (2) *Tibbett's Island Anchorage Area*. The waters bounded by a line connecting the following points, beginning at 44°05'20.27" N, 076°23'25.78" W; thence to 44°05'21.85" N, 076°22'40.97" W; thence to 44°04'34.08" N, 076°23'09.98" W; 44°04'07.72" N, 076°23'33.76" W; 44°04'32.78" N, 076°24'43.80" W; 44°05'44.37" N, 076°23'56.29" W; 44°05'20.27" N, 076°23'25.78" W and back to the beginning point. These coordinates are based on WGS 84.

- (b) *The Regulations*. (1) Anchors must not be placed in the Saint Lawrence Seaway shipping channel. No portion of the hull or rigging may extend outside the limits of the anchorage area.

(2) No vessel may occupy any general anchorage described in paragraph (a) of this section for a period longer than 10 days unless approval is obtained from the Captain of the Port for that purpose.

(3) The COTP, or authorized representative, may require vessels to depart from the Anchorages described above before the expiration of the authorized or maximum stay. The COTP, or authorized representative, will provide at least 12-hour notice to a vessel required to depart the anchorages.

Dated: January 11, 2018

J. M. NUNAN,  
Rear Admiral, U.S. Coast Guard,  
Commander, Ninth Coast Guard District.  
[FR Doc. 2018-02114 Filed: 2/1/2018 8:45 am; Publication Date: 2/2/2018]