



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2019-0028]

RIN 1625- AA01

Anchorage; Galveston Harbor, Bolivar Roads Channel, Galveston, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a 48-hour time limit in Anchorage Area (B) in Bolivar Roads near Galveston, Texas. Currently anchorage areas (A) and (C) in the Bolivar Roads Channel have a 48-hour time limit, however anchorage (B) does not. This has resulted in vessels remaining in anchorage (B) for extended periods, blocking other vessels with pressing logistical needs, adversely affecting commerce and impacting navigational safety. Except when stress of weather makes sailing impractical or hazardous, under this proposed rule, vessels would not be permitted to anchor in anchorage area (B) for more than 48 hours unless expressly authorized by the Captain of the Port Houston-Galveston. 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-2019-0028 using the Federal eRulemaking Portal at <https://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 LCDR Sarah Rousseau or LT Nathaniel Clinger, Sector Houston-Galveston Waterways Management Division, U.S. Coast Guard; telephone 281-464-4736/4782, email HoustonWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DC	District Commander
DHS	Department of Homeland Security
FR	Federal Register
HSC	Lone Star Harbor Safety Committee
LCDR	Lieutenant Commander
LT	Lieutenant
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
VTS	Coast Guard Vessel Traffic Service Houston/Galveston

II. Background, Purpose, and Legal Basis

On October 11, 2018, the Texas Lone Star Harbor Safety Committee requested a regulatory change to the Galveston Harbor Bolivar Roads Anchorage area (B). The HSC submitted a recommendation to the Sector Houston-Galveston Captain of the Port that Anchorage area (B) be regulated under the same 48-hour time limit as the adjacent Anchorage areas (A) and (C). The HSC developed a working group, the Anchorage Working Group, to assess the optimal ways to use the anchorage to facilitate safety and

efficiency within the port.

The purpose of this rulemaking is to align the Galveston Harbor Bolivar Roads Anchorage area (B) to the adjacent anchorages, necessary to address port congestion and navigation safety concerns. The local VTS will continue to monitor and control vessel movement within the Anchorage area (B); in addition, the VTS will be allowed to grant extensions for extenuating circumstances. The Coast Guard is proposing to revise 33 CFR 110.197 to establish the 48-hour time limit in the Anchorage area (B). Given the limited anchorage space available, the anchorage will 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 legal basis and authorities for this notice of proposed rulemaking are found in 33 U.S.C. 471 which authorizes the Coast Guard to propose, establish, and define regulatory anchorages.

III. Discussion of Proposed Rule

The Commander of the Coast Guard Eighth District is proposing to establish a 48-hour anchorage time limit in the Galveston Harbor Bolivar Roads Anchorage area (B). This 48-hour restriction currently applies to the Galveston Harbor Bolivar Roads Anchorage areas (A) and (C). The proposed regulation would revise 33 CFR 110.197(b)(2), to include Anchorage area (B). The local Coast Guard VTS will monitor the anchorage and adhere to existing language within the regulation. The proposed regulatory text appears at the end of this document.

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 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 (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the anchorage duration of vessels in a previously established anchorage ground. This regulation will have a positive impact on vessel traffic of the waterway, increasing the efficiency of the limited inshore anchorage space for Houston and Galveston.

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 Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), 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 a 48-hour anchor time limit in the Galveston Harbor Bolivar Roads Anchorage area B. Normally such actions are categorically excluded from further review under paragraph L59(b) in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. 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.

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 <https://www.regulations.gov>. If your material cannot be submitted using <https://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 <https://www.regulations.gov> and will include any personal information you

have provided. For more about privacy and the docket, visit <https://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 <https://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 is proposing 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, 2071; 46 U.S.C. 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 110.197 paragraph (b)(2) to read as follows:

§ 110.197 Galveston Harbor, Bolivar Roads Channel, Texas.

* * * * *

(b) * * *

(2) Except when stress of weather makes sailing impractical or hazardous, vessels shall not anchor in anchorage areas (A), (B), or (C) for more than 48 hours unless expressly authorized by the Captain of the Port Houston-Galveston. Permission to anchor for longer periods may be obtained through Coast Guard Vessel Traffic Service Houston/Galveston on VHF-FM channels 12 (156.60 MHz) or 13 (156.65 MHz).

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Dated: January 3, 2020

John P. Nadeau,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District.

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