



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2016-0897]

RIN 1625-AA01

Anchorage Grounds; Atlantic Ocean, Jacksonville, FL

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a dedicated offshore anchorage approximately seven nautical miles northeast of the St. Johns River inlet, Florida. This action is necessary to ensure the safety and efficiency of navigation for all vessels transiting in and out of the Port of Jacksonville.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2016-0897 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Emily Sysko, Sector Jacksonville Waterways Management Division Chief, U.S. Coast Guard; telephone 904-714-7616, email Emily.T.Sysko@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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| CFR | Code of Federal Regulations |
| DHS | Department of Homeland Security |
| FR | Federal Register |
| JMTX | Jacksonville Marine Transportation Exchange |
| NMFS | National Marine Fisheries |
| NOAA | National Oceanic and Atmospheric Administration |
| NPRM | Notice of proposed rulemaking |
| § | Section |
| SJBPA | St. Johns Bar Pilots Association |
| U.S.C. | United States Code |
| USCG | United States Coast Guard |
| WAMS | Waterways Analysis and Management System |

II. Background Information and Regulatory History

The project to establish an offshore anchorage just outside of the St. Johns River and offshore of Jacksonville was initiated in 2013. From 2013 through 2017, certain port stakeholders (St. Johns Bar Pilots Association (SJBPA), Jacksonville Marine Transportation Exchange (JMTX), National Oceanic and Atmospheric Administration (NOAA), and United States Coast Guard (USCG)) worked to determine a suitable location for the anchorage, with consideration given to, among other things, environmental factors and Seasonal Management Areas. However, a location was not determined during this timeframe. The USCG conducted a Waterways Analysis and Management System (WAMS) survey for this proposed project and did not receive any comments of concern from the entities previously mentioned.

In 2016, the stakeholders re-engaged the USCG in an attempt to complete the offshore anchorage project. A notice of proposed rulemaking (NPRM) was published in the Federal Register on May 4, 2017 (82 FR 20859). Informal National Environmental Protection Act (NEPA) consultations were disseminated requesting feedback on the

proposed anchorage location. National Marine Fisheries (NMFS) and NOAA responded with significant concerns regarding the location. The aforementioned agencies requested an environmental study be completed to analyze potential hard bottom locations within the selected anchorage ground and the effects of vessels anchoring in these environmentally sensitive areas. The stakeholders involved at this time were unable to financially support the requested study. Due to these concerns, no further action was taken after the NPRM was published in 2017.

In 2018, the USCG met with the stakeholders again to determine a way forward with the proposed anchorage. Stakeholders concluded that three circular anchorages would meet the needs of an offshore anchorage, while allowing flexibility to avoid hard bottom areas. In 2019, USCG Sector Jacksonville sent out an informal consultation via e-mail to federal, state and local government and private stakeholders to solicit for feedback on the proposed, new anchorage construct. NMFS agreed with the construct, allowing USCG to move forward with formal NEPA consultation. Towards the end of 2019, USCG sent out formal consultation to approximately 20 different organizations and agencies regarding the anchorage. At this time, NMFS expressed some minor concerns. At the beginning of 2020, stakeholders and NMFS came to an agreement that addressed the minor concerns raised.

On July 6, 2020, a supplemental notice of proposed rulemaking (SNPRM) was published in the Federal Register (85 FR 40154). In the SNPRM, we proposed to establish a dedicated offshore anchorage approximately seven nautical miles northeast of the St. Johns River inlet, Florida.

During the comment period that ended September 4, 2020, we received one comment in support of the regulation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority found in 33 U.S.C. 471. The purpose of this rulemaking is to improve the navigational safety, traffic management and port security for the Port of Jacksonville.

Currently, there is no dedicated deep draft offshore anchorage for commercial ocean-going vessels arriving at the Port of Jacksonville. Vessels have routinely been anchoring 1.5 nautical miles northeast of the “STJ” entrance buoy. Without a designated charted anchorage area, vessels end up drifting or anchoring in the common approaches to the St. Johns River, creating a potential hazardous condition for vessels transiting in and out of the Port of Jacksonville. These conditions have worsened in recent years with the introduction of Liquefied Natural Gas (LNG) vessels transiting the Port of Jacksonville. Additional growth is forecasted to occur because of an expected deepening of the channel, causing an increase in the number of large vessels calling on Jacksonville in the near future.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one supportative comment on the SNPRM. There are no changes in the regulatory text of this rule from the proposed rule in the SNPRM.

This rule establishes an offshore anchorage area approximately seven nautical miles northeast of the St. Johns River inlet, Florida. There is not currently 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 vessels transiting in and out of the Port of Jacksonville. The anchorage areas consist of three circles each with a radius of 1,400 feet.

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

V. Regulatory Analyses

We developed this 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 rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule 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 fact that there will be minimal impact to routine navigation because the anchorage area would not restrict traffic. The anchorage 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will 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 may be small entities, for the reasons stated in section V.A above, this rule would not have a significant economic impact on any vessel owner or operator.

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 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 call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive

023-01, Rev. 1, associated implementing instructions, 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 determined 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 rule involves establishing offshore anchorage grounds, which would be comprised of three circles, each with a 1,400-foot radius. The anchorage grounds are not designated a critical habitat or special management area. 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. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

List of Subjects in 33 CFR Part 110

Anchorage Grounds

For the reasons discussed in the preamble, the Coast Guard amends 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. Add § 110.184 to read as follows:

§ 110.184 Atlantic Ocean, Offshore Jacksonville, FL.

(a) *Location.* All waters of the Atlantic Ocean encompassed within a radius of 1,400 feet of the following coordinates based on North American Datum 1983:

(1) Anchorage Ground 1 with a center point in position 30°26'48.6"N, 81°17'14.9"W.

(2) Anchorage Ground 2 with a center point in position 30°26'20.5"N, 81°17'30.8"W; and

(3) Anchorage Ground 3 with a center point in position 30°26'20.2"N, 81°16'57.8"W.

(b) *The regulations.* (1) Commercial vessels in the Atlantic Ocean near the Port of Jacksonville desiring to anchor must anchor only within the anchorage area defined and established in paragraph (a) of this section, except in cases of emergency.

(2) 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.

(3) 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.

(4) No vessel may anchor in a "dead ship" status (that is, propulsion or control unavailable for normal operations) without the prior approval of the Captain of the Port (COTP). Vessels which are planning to perform main propulsion engine repairs or maintenance, must immediately notify the COTP on VHF-FM Channel 22A. Vessels must also report marine casualties in accordance with 46 CFR 4.05-1.

(5) No vessel may anchor within the designated anchorage for more than 72 hours

without the prior approval of the COTP. To obtain this approval, contact the COTP on VHF-FM Channel 22A.

(6) The COTP 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.

(7) 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: September 15, 2020.

Eric C. Jones,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard District.

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