



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: Final rule.

SUMMARY: The Coast Guard is establishing a 48-hour time limit in Anchorage Area (B) in Bolivar Roads near Galveston, Texas. Anchorage areas (A) and (C) in the Bolivar Roads Channel already have a 48-hour time limit, but anchorage (B) did not. This 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, this rule will prohibit vessels from anchoring in anchorage area (B) for more than 48 hours unless expressly authorized by the Captain of the Port Houston-Galveston.

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-2019-0028 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 Lieutenant Commander Sarah Rousseau or Lieutenant Junior Grade Ryan

Gilbert, Sector Houston-Galveston Waterways Management Division, U.S. Coast Guard; telephone 281-464-4736/5800, email HoustonWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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.

On January 28, 2020, we published a notice of proposed rulemaking (85 FR 4919) that proposed to establish a 48-hour time limit in Anchorage Area (B) in Bolivar Roads near Galveston, Texas. The purpose of the propose rule was to align the Galveston Harbor Bolivar Roads Anchorage area (B) to the adjacent anchorages. This action is necessary to address port congestion and navigation safety concerns. We noted that the local VTS would continue to monitor and control vessel movement within the Anchorage area (B), and that the VTS would be allowed to grant extensions for extenuating circumstances.

III. Legal Authority and Need for Rule

The Secretary of Homeland Security has delegated to the Coast Guard the

authority to establish and regulate anchorage grounds in accordance with 33 U.S.C. 471; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, para. II, (63). The Captain of the Port Houston- Galveston (COTP) has determined that 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. This rule addresses that problem by not permitting vessels to anchor in anchorage area (B) for more than 48 hours unless expressly authorized by the Captain of the Port Houston-Galveston or without express permission if the stress of weather makes sailing impractical or hazardous.

IV. Discussion of Comments, Changes, and the Rule

We received six comments to the NPRM (85 FR 4919) published January 28, 2020. They all supported the proposed rule. We made no changes in the regulatory text of this rule from the proposed regulatory text in the NPRM. This rule establishes a 48-hour time limit in Anchorage Area (B) in Bolivar Roads near Galveston, Texas, by revising paragraph (b)(2) in 33 CFR 110.197.

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, 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 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 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 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.

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. 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 a 48-hour anchor time limit in the Galveston Harbor Bolivar Roads Anchorage area B. It is 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.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

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--GALVESTON HARBOR, BOLIVAR ROADS CHANNEL, TEXAS.

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(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 22, 2021.

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