



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2015-0729]

RIN 1625-AA01

Port of Miami Anchorage Area; Atlantic Ocean, Miami Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the Miami Anchorage. The Miami Anchorage would be divided into two separate anchorage areas. This action is necessary to reduce potential damage to threatened coral posed by anchoring vessels. We invite your comments on this supplemental 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-2015-0729 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 MST2 Benjamin R. Colbert, Sector Miami

Waterways Management Division, U.S. Coast Guard; telephone 305-535-4317, email Benjamin.R.Colbert@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
SNPRM	Supplemental notice of proposed rule making
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On December 1, 2015, the Coast Guard published a notice of study (80 FR 75020) that indicated we were evaluating amending the Miami Anchorage to divide the anchorage into two smaller anchorage areas. The proposed amendment was designed in coordination with a variety of local stakeholders, including the South East Florida Coral Reef Initiative (SEFCRI). Comments provided by these stakeholders, academic research, and environmental reports raised concerns with the Coast Guard about the potential for damage to the Florida Reef in the Miami Anchorage. Examples of the body of work that influenced the Coast Guard in proposing the amendment may be found in the docket.

In response to the notice of study, the Coast Guard received four comments. These comments were addressed in an NPRM published on May 10, 2016 (81 FR 28788). In response to the NPRM, we received four additional comments. Two of the comments, one by the local non-profit Miami Waterkeeper and the other by a private citizen, supported our planned modification of the Miami Anchorage. The third and fourth comments were submitted by the Biscayne Bay Pilots Association.

The Biscayne Bay Pilots Association (pilots) submitted a comment, through the Port of Miami, on May 17, 2016. This comment requested the Coast Guard to evaluate changes in the proposed anchorage, including shifting the outer anchorage west and shifting the southern boundary of the outer anchorage north. In response to these comments, the Coast Guard met with the Pilots to discuss the requests and the basis at which the Coast Guard arrived at the proposed anchorage configuration. During the meeting, the Coast Guard agreed that shifting the western boundary of the outer anchorage approximately 300 feet to the west would provide more room for large anchoring vessels. This change would not have any effect on coral or hardbottom as the sea floor in that area is sand.

On June 11, 2016, the Pilots submitted a follow up comment to the public docket expressing concern that the outer anchorage would expose vessels to increased current and waves and, they claim, could increase the chance a vessel would drag anchor. To properly assess environmental conditions and risk of an anchor drag, the Coast Guard consulted with the National Weather Service and Maersk Training Center. The National Weather Service conducted a study, analyzing the previous year's current in the vicinity of the anchorage. The Weather Service found that the average current in the area of the outer anchorage over the previous year was approximately 1.2 knots with current ranging plus or minus half a knot from the mean current 70 percent of the time. This information was provided to the Maersk Training Center in Svendborg, Denmark. Subject matter experts at the Training Center indicated that the conditions posed no significant hazard and that Masters would have the training and experience to set an anchor in the deeper waters of the outer anchorage.

In addition to consulting with experts, the Coast Guard has made minor changes to the proposed anchorage regulations that would further ensure the safety of all vessels anchoring in the outer anchorage. Vessels using the Miami Anchorage would be prohibited from anchoring with engines off or in a “dead ship” status and would be required to maintain a bridge watch with an English speaking deck officer. Finally, the Coast Guard will submit amendments to the local Coast Pilot to provide improved guidance to vessels planning to anchor in the outer anchorage.

In addition to the discussions with the Biscayne Bay Pilots Association and SEFCRI discussed above, the Coast Guard consulted with a number of other stakeholders and subject matter experts in the development of this Supplemental Notice of Proposed Rulemaking (SNPRM). Several biologists from the University of Miami and Nova Southeastern University supported the proposed changes to the Miami Anchorage. The Florida State Historical Preservation Officer determined that there were no known cultural resources that would be impacted by the proposed changes and opined that the proposed changes to the anchorage would have no effect on historic properties listed, or eligible for listing, on the National Register for Historic Places. The Habitat Conservation Division of the National Marine Fisheries Service supports relocating the anchorage as a means to reduce the continued degradation of coral reef and hardbottom in this area from anchoring activities. The Florida Department of Environmental Protection strongly supports this rulemaking and relocating the anchorage as a means to reduce the continued degradation of coral reef and hardbottom in this area from anchoring activities.

The Coast Guard is committed to continued outreach, consultation, and communication in order to ensure effective rulemaking and invites your comments to the

proposed rule in this SNPRM. All comments referenced above, having been received directly and not submitted to the www.regulations.gov portal, will be added to the docket for public review.

III. Discussion of Proposed Rule

In this SNPRM, the Coast Guard proposes to amend the Miami Anchorage by dividing the anchorage into two smaller anchorage areas. The amended coordinates would establish two anchorages with a combined area of approximately 1.5 square miles and reduce the total anchorage area by approximately 3 square miles. The amended anchorage areas would be established with the following coordinates:

Small inner western anchorage (approximate water depths: 45 ft)

	Latitude	Longitude
NW Corner	25° 47'57.687"N	080° 05'37.225"W
NE Corner	25° 47'57.341"N	080° 05'26.466"W
SE Corner	25° 46'31.443"N	080° 05'27.069"W
SW Corner	25° 46'31.557"N	080° 05'37.868"W

Large outer eastern anchorage (approximate water depths: 120 ft)

	Latitude	Longitude
NW Corner	25° 48'13.841"N	080° 04'59.155"W
NE Corner	25° 48'04.617"N	080° 04'04.582"W
SE Corner	25° 46'32.712"N	080° 04'28.387"W
SW Corner	25° 46'43.770"N	080° 05'02.360"W

Additionally, in response to comments received from the Biscayne Bay Pilots Association and others, the Coast Guard has proposed minor changes to the anchorage regulations. Vessels anchored in the Miami Anchorage will be prohibited from anchoring with engines off or in a “dead ship” status and vessels will be required to seek permission of the Captain of the Port Miami prior to anchoring for longer than 72 hours. In addition to the above changes, we have reordered and reworded the proposed anchoring

regulations.

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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This SNPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the SNPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the relatively minor changes being proposed to the regulation. The regulation would ensure 1.5 square miles of anchorage areas continue to exist, vessels will be prohibited from anchoring with engines off or in a “dead ship” status, and vessels will be required to seek permission of the Captain of the Port Miami prior to anchoring for longer than 72 hours.

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.

While some owners or operators of vessels intending to use the anchorage may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

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 reducing an anchorage. Normally such actions are categorically excluded from further review under paragraph 34(f) of Figure 2-1 of Commandant Instruction M16475.ID. 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 <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, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this SNPRM 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--ANCHORAGES.

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. Revise § 110.188 to read as follows:

§ 110.188 Atlantic Ocean off Miami and Miami Beach, Fla.

(a) *The anchorage grounds.* (1) *Anchorage A.* All area of the Atlantic Ocean, encompassed by a line connecting the points of the following North America Datum 83 coordinates:

Latitude	Longitude
25° 47'57.687"N	080° 05'37.225"W
25° 47'57.341"N	080° 05'26.466"W
25° 46'31.443"N	080° 05'27.069"W
25° 46'31.557"N	080° 05'37.868"W

(2) *Anchorage B.* All area of the Atlantic Ocean, encompassed by a line connecting the points of the following North America Datum 83 coordinates:

Latitude	Longitude
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25° 48'13.841"N	080° 04'59.155"W
25° 48'04.617"N	080° 04'04.582"W
25° 46'32.712"N	080° 04'28.387"W
25° 46'43.770"N	080° 05'02.360"W

(b) *The regulations.* (1) Vessels in the Atlantic Ocean in the vicinity of Port of Miami entrance channel must anchor only within the anchorage area hereby defined and established, except in cases of emergency.

(2) Prior to entering the anchorage area, all vessels must notify the Coast Guard Captain of the Port, via the Biscayne Bay Pilots, on VHF-FM channel 12 or 16.

(3) All vessels within the designated anchorage 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 on the vessel's position to ensure the vessel is not dragging anchor.

(4) 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 over reefs.

(5) 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. Vessels experiencing casualties such as main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion engine repairs or maintenance, must, immediately notify the Coast Guard Captain of the Port via Coast Guard Sector Miami on VHF-FM channel 16.

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

hours without the prior approval of the Captain of the Port. To obtain this approval, contact the Coast Guard Captain of the Port via the Biscayne Bay Pilots, on VHF-FM channel 12 or 16.

(7) The Coast Guard Captain of the Port 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.

(8) Commercial vessels anchoring under emergency circumstances outside the anchorage area must shift to new positions within the anchorage area immediately after the emergency ceases.

(9) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port, U.S. Coast Guard, Miami, Florida, may direct relocation of any vessel anchored within the anchorage area. Once directed, such vessel must get underway at once or signal for a tug, and must change position as directed.

Dated: February 15, 2017

S. A. Buschman,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard District.

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