

The rule does not involve or affect Indian Tribes in any way.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act.

This rule:

a. Does not have an annual effect on the economy of \$100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded Mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 944**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 12, 2007.

**Allen D. Klein,**

*Regional Director, Western Region.*

[FR Doc. E7-20697 Filed 10-19-07; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

[Docket No. CGD07-122]

**RIN 1625-AA01**

**Anchorage Regulation; Port Everglades, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the anchorage regulations for Port Everglades, Florida. The amendment would modify the current anchorage area by eliminating that portion of the anchorage closest to sensitive coral reef areas, expand that portion of the anchorage area that poses less risk to these areas, and limit the amount of time a vessel may remain in

the anchorage area. These changes would ensure all vessels have fair access to the anchorage area, and provide a higher degree of vessel and environmental safety by reducing the possibility of vessels grounding in sensitive coral reef areas.

**DATES:** Comments and related material must reach the Coast Guard on or before November 21, 2007.

**ADDRESSES:** You may mail comments and related material to Coast Guard Sector Miami, Waterways Management Division, 100 MacArthur Causeway, Miami Beach, Florida, 33139. Coast Guard Sector Miami, Waterways Management Division maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Sector Miami, Waterways Management Division between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Chris Svencer, Coast Guard Sector Miami, Waterways Management Division at (305) 535-4550.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07-122], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Sector Miami, Waterways Management Division at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## Background and Purpose

During the last ten years, nine known groundings and six known anchor mishaps have occurred while vessels were attempting to anchor inside the current anchorage described in 33 CFR 110.186, or after a vessel anchored inside the anchorage dragged her anchor outside of the anchorage area.

Anchoring mishaps include both misplacement of the anchor itself upon coral reefs as well as contact between the anchor cable and coral reefs. Adverse weather conditions, proximity to the reef, anchorage congestion, and poor seamanship were contributing factors to the groundings and anchoring mishaps.

This proposed rule is necessary to modify existing anchoring requirements and guidelines in order to provide a higher degree of protection to the coastal area and sensitive benthic coral reef ecosystems, and to provide a safer anchorage for mariners. This amendment is intended to re-designate the anchorage areas to account for anchor position and cable lay and limit the amount of time vessels may remain at anchorage. Placing a limitation on the amount of time a vessel can spend at the anchorage area will reduce the number of vessels routinely utilizing the anchorage area for purposes other than awaiting berth inside Port Everglades.

The Coast Guard has also researched alternative solutions for restructuring the anchorage. These alternatives have included: Change nothing and continue to use the current anchorage; create anchorage circles to control the location of vessels in the anchorage area; and remove the anchorage completely. The dramatic impact of recent vessel groundings on the sensitive coral reefs in the vicinity of the current anchorage area necessitates modification of the current anchorage area to provide a greater distance between the anchorage and shore. Creating anchorage circles for precision anchorage does not eliminate the threat to the local reefs due to ever changing weather conditions that may drag properly anchored vessels over the coral reefs to the west. Finally, removing the anchorage altogether is not feasible due to commercial traffic in need of a location to anchor while awaiting a berth in Port Everglades.

## Discussion of Proposed Rule

This adjustment of the anchorage area off Port Everglades is necessary to protect life, minimize injury to the marine environment, and provide a greater margin of safety for vessels and property from the associated hazards resulting from vessel groundings. This

proposal will close anchorage area "A" and expand anchorage area "B". The new anchorage area will be farther away from sensitive coral reef species.

The Coast Guard has completed an environmental assessment and has confirmed that the relocated anchorage will greatly reduce the impact on the delicate coral structures currently located near anchorage "A". The time period a vessel may remain at anchor in the anchorage will be limited to 72 hours to provide all vessels calling on the port equal and fair access to the anchorage grounds. These amendments will improve navigation, provide a safer anchorage area, and minimize negative impacts on the environment by giving the vessels one specified anchorage location.

## Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. The existing commercial anchorage is used by container vessels, tank vessels, and other general cargo vessels awaiting a berth in Port Everglades, Fort Lauderdale, Florida, and the new anchorage is expected to be used by the same type and number of vessels for the same purpose. The new proposed commercial anchorage will allow for enough anchorage space to sufficiently support operations in Port Everglades, and is expected to have little, if any, economic impact. This proposed regulation is expected to have little or no economic impact because all of the vessels previously using the anchorage will be able to continue using the new anchorage.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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.

This proposed rule may affect the following entities, some of which might be small entities: The owners or

operators of vessels intending to utilize the anchorage area outside Port Everglades, Florida. This proposed rule would not have significant economic impact on a substantial number of small entities for the same reasons given above in the "Regulatory Evaluation" section of this preamble.

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. 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.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Lieutenant Junior Grade Chris Svencer, Coast Guard Sector Miami, Waterways Management Division at (305) 535–4550. 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.

## Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

## Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

## 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 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

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.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and although this action may have qualified for a categorical exclusion under figure 2–1, paragraph (34)(f) of the Instruction, the Coast Guard found good reason to further investigate the effects the anchorage area modification would have on the environment. A preliminary "Environmental Analysis Check List" is available in the docket where indicated under **ADDRESSES**. Furthermore, as part of section 7 of the Endangered Species Act (50 CFR part 402, 16 U.S.C. 1536), the U.S. Coast Guard opened consultation with a number of stakeholders. The National Oceanic and Atmospheric Administration (NOAA), the National Marine Fisheries Service (NMFS), and U.S. Fish and Wildlife Service (FWS) have reviewed all restructuring plans and believe the proposed action would not likely affect the West Indian Manatee, Johnson's Seagrass, Smalltooth Sawfish, and all local turtle species because the project does not have any elements with the potential to affect these listed species. NOAA also found that the restructuring into deeper waters, farther away from the easternmost reef, is likely to have an indirect beneficial effect on Elkhorn and Staghorn coral by potentially reducing vessel groundings and anchor damage that have adversely affected corals and other important near shore benthic resources in the project area. Comments on this section will be considered before we make the final decision on whether

this rule should be categorically excluded from further environmental review.

#### 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, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.

2. Amend § 110.186 by revising paragraphs (a), (b)(3) through (6), and adding paragraphs (b)(7) through (9) to read as follows:

#### § 110.186 Port Everglades, Florida.

(a) *The anchorage grounds.* The anchorage grounds, the center of which is located approximately two and one half miles northeast of the entrance to Port Everglades, is an area bounded by a line connecting points with the following North American Datum 83 coordinates:

26–08'26.934" N 080–04'28.240" W  
26–08'08.560" N 080–04'16.158" W  
26–07'56.000" N 080–04'17.486" W  
26–07'56.000" N 080–02'42.623" W  
26–07'19.500" N 080–02'53.153" W  
26–07'19.500" N 080–04'28.800" W  
26–06'35.160" N 080–04'28.800" W  
26–06'35.160" N 080–04'38.694" W

(b) *The regulations.*

\* \* \* \* \*

(3) All vessels within the designated anchorage area shall maintain a 24-hour bridge watch by a licensed deck officer proficient in English, monitoring VHF-FM channel 16. This individual shall confirm that the ship's crew performs frequent checks of 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 (i.e. propulsion or control unavailable for normal operations) without the prior approval of the Captain of the Port. Vessels experiencing casualties such as a main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion

engine repairs or maintenance, shall 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 Port Everglades Harbor Master, on VHF-FM Channel 14.

(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 shall 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: October 4, 2007.

**D.W. Kunkel,**

*Rear Admiral, U.S. Coast Guard Commander,  
Seventh Coast Guard District.*

[FR Doc. E7-20608 Filed 10-19-07; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter VI

#### Office of Postsecondary Education; Notice of Negotiated Rulemaking for Programs Authorized Under Title IV of the Higher Education Act of 1965, as Amended

**AGENCY:** Department of Education.

**ACTION:** Notice of establishment of negotiated rulemaking committee.

**SUMMARY:** We announce our intention to establish one or two negotiated rulemaking committees to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended (HEA). Each committee will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We also announce three public hearings where interested parties can suggest issues that should be considered for action by the negotiating committees. In addition, we request nominations for

individual negotiators who represent key stakeholder constituencies that are involved in the student financial assistance programs authorized under Title IV of the HEA to serve on these committees.

**DATES:** We must receive your nominations for negotiators to serve on the committees on or before November 29, 2007. The dates, times, and locations of the public hearings are listed under the **SUPPLEMENTARY INFORMATION** section of this notice.

**ADDRESSES:** Please send your nominations for negotiators to Patty Chase, U.S. Department of Education, 1990 K Street, NW., room 8050, Washington, DC 20006, or by fax to Patty Chase at (202) 502-7874. You may also e-mail your nominations to: [Patty.Chase@ed.gov](mailto:Patty.Chase@ed.gov). Those nominated will be notified via letter as to whether or not they have been selected as a negotiator as soon as the Department's review process is completed.

**FOR FURTHER INFORMATION CONTACT:** For information about the hearings and the nomination submission process, contact: Patty Chase, U.S. Department of Education, 1990 K Street, NW., room 8050, Washington, DC 20006. Telephone: (202) 502-7905. You may also e-mail your questions about the hearings and the nomination submission process to: [Patty.Chase@ed.gov](mailto:Patty.Chase@ed.gov).

For information about negotiated rulemaking in general, contact: John Kolotos, U.S. Department of Education, 1990 K Street, NW., room 8018, Washington, DC 20006. Telephone (202) 502-7762. You may also e-mail your questions about negotiated rulemaking to: [John.Kolotos@ed.gov](mailto:John.Kolotos@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free at 1-800-877-8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the person responsible for information about the hearings and the nomination submission process listed in this section under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs authorized under Title IV of the HEA, the Secretary obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations from the public, the Secretary uses a negotiated rulemaking process to develop the proposed regulations.

We intend to develop proposed regulations by following the negotiated rulemaking procedures in section 492 of the HEA. We intend to select participants for the negotiated rulemaking committees that represent the interests significantly affected by the proposed regulations. To the extent possible, we will select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA.

#### Regulatory Issues

We intend to conduct negotiated rulemaking to develop proposed regulations for the new TEACH Grant program, which was added to Title IV of the HEA by the College Cost Reduction and Access Act of 2007 (CCRAA), Pub. L. 110-84. We will also address regulatory changes that will be needed for the Federal Family Education Loan Program (FFEL) and the William D. Ford Direct Loan Program resulting from the enactment of the CCRAA including, but not limited to: rules for income-based repayment; changes to the maximum repayment period; reductions to the lender insurance rates and loan forgiveness for public service employees; and definitions of terms used in the programs. We will also consider whether the regulations need to be amended to implement or reflect Pub. L. 110-93, which made permanent the Secretary's authority under the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act).

We note that there is legislation currently pending in Congress to reauthorize the HEA. If reauthorization of the HEA is completed prior to the first negotiating session, we may also include on the negotiating agenda additional changes to the regulations that may be needed.

We also expect to conduct negotiated rulemaking on other regulatory issues. These may include issues raised by the public during the regional hearings. Other issues the Department identifies as necessary to improve program administration and accountability will also be negotiated, including potential Federal preemption of State laws that may conflict with the Department's regulations on improper inducements and the use of preferred lender lists in the FFEL program.

We may also consider the establishment of competitive preference priorities within the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) program.