

provide information considered essential to the Department in making the required determinations.

(ii) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

\* \* \* \* \*

Dated: August 7, 2006.

**C.R. Choate,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 110

[CGD01-06-026]

RIN 1625-AA01

### Anchorage Regulations; Falmouth, ME, Casco Bay

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the existing special anchorage area in Falmouth, Maine, on Casco Bay. This proposed action is necessary to facilitate safe navigation and provide a safe and secure anchorage for vessels of not more than 65 feet in length. This action is intended to increase the safety of life and property on Casco Bay, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of vessel traffic and commerce.

**DATES:** Comments and related material must reach the Coast Guard on or before October 10, 2006.

**ADDRESSES:** You may mail comments and related material to Commander (dpw) (CGD01-06-026), First Coast Guard District, 408 Atlantic Ave., Boston, Massachusetts 02110, or deliver them to room 628 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. 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 room 628, First Coast Guard District Boston, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John J. Mauro, Commander (dpw), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02110, Telephone (617) 223-8355 or e-mail at [John.J.Mauro@uscg.mil](mailto:John.J.Mauro@uscg.mil).

#### 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 (CGD01-06-026), 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 the Waterways Management Branch 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

The rule is intended to reduce the risk of vessel collisions by enlarging the current special anchorage area in Falmouth, Maine, by an additional 206 acres. The proposed rule would expand the existing special anchorage, described in 33 CFR 110.5(d), to allow anchorage for approximately 150 additional vessels. When at anchor in any special anchorage, vessels not more than 65 feet in length need not carry or exhibit the white anchor lights required by the Navigation Rules.

In developing this proposed rule, the Coast Guard has consulted with the Army Corps of Engineers, Northeast, located at 696 Virginia Rd., Concord, MA 01742.

##### Discussion of Proposed Rule

The proposed rule would amend the existing special anchorage located at the

Town of Falmouth, Maine, on Casco Bay. The Mussel Cove and adjacent waters at Falmouth Foreside, Falmouth special anchorage would include all waters of Casco Bay enclosed by a line beginning at the Dock House (F.S.) located at latitude 43°44'22" N, longitude 70°11'41" W; thence to latitude 43°44'19" N, longitude 70°11'33" W; thence to latitude 43°44'00" N, longitude 70°11'44" W; thence to latitude 43°43'37" N, longitude 70°11'37" W; thence to latitude 43°43'04" N, longitude 70°12'13" W; thence to latitude 43°41'56" N, longitude 70°12'53" W; thence to latitude 43°41'49" N, longitude 70°13'05" W; thence to latitude 43°42'11" N, longitude 70°13'30" W; thence along the shoreline to the point of beginning. All proposed coordinates are North American Datum 1983 (NAD 83).

This special anchorage area would be limited to vessels no greater than 65 feet in length. Vessels not more than 65 feet in length are not required to sound signals as required by rule 35 of the Inland Navigation Rules (33 U.S.C. 2035) nor exhibit anchor lights or shapes required by rule 30 of the Inland Navigation Rules (33 U.S.C. 2030) when at anchor in a special anchorage area.

Additionally, mariners using the anchorage areas are encouraged to contact local and state authorities, such as the local harbor master, to ensure compliance with any additional applicable state and local laws. Such laws may involve, for example, compliance with direction from the local harbor master when placing or using moorings within the anchorage.

##### 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.

This finding is based on the fact that this proposal conforms to the changing needs of the Town of Falmouth, the changing needs of recreational, fishing and commercial vessels, and makes the best use of the available navigable water. This proposed special area, while in the interest of safe navigation and protection of the vessels moored at the Town of Falmouth, does not impede the passage of vessels intending to transit

within Casco Bay. Thus, the special anchorage area will have a minimal economic impact.

### 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.

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.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of recreational or commercial vessels intending to transit in a portion of the Casco Bay in and around the anchorage area. However, this anchorage area would not have a significant economic impact on these entities for the following reasons: The proposed special area does not impede the passage of vessels intending to transit in and around Falmouth, which include both small recreational and large commercial vessels. Thus, the special anchorage area will not impede safe and efficient vessel transits on Casco Bay.

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 John J. Mauro, Waterways Management Branch, First Coast Guard District Boston at (617) 223–8355 or e-mail at [John.J.Mauro@uscg.mil](mailto:John.J.Mauro@uscg.mil). 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 would 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.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation. This rule

fits the category selected from paragraph (34)(f) as it would expand a special anchorage area.

A preliminary "Environmental Analysis Check List" is available in the docket where indicated under

**ADDRESSES.** Comments on this section will be considered before we make the final decision on whether the 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 and 2071; 33 CFR 1.05–1(g);

and Department of Homeland Security Delegation No. 0170.1.

2. Amend § 110.5, by revising paragraph (d) to read as follows:

#### § 110.5 Casco Bay, Maine.

\* \* \* \* \*

(d) *Mussel Cove and adjacent waters at Falmouth Foreside, Falmouth.* All of the waters enclosed by a line beginning at the Dock House (F.S.) located at latitude 43°44'22" N, longitude 70°11'41" W; thence to latitude 43°44'19" N, longitude 70°11'33" W; thence to latitude 43°44'00" N, longitude 70°11'44" W; thence to latitude 43°43'37" N, longitude 70°11'37" W; thence to latitude 43°43'04" N, longitude 70°12'13" W; thence to latitude 43°41'56" N, longitude 70°12'53" W; thence to latitude 43°41'49" N, longitude 70°13'05" W; thence to latitude 43°42'11" N, longitude 70°13'30" W;

thence along the shoreline to the point of beginning. DATUM: NAD 83.

Note to paragraph (d). The area designed by paragraph (g) of this section is reserved for yachts and other small recreational craft. Fore and aft moorings will be allowed in this area. Temporary floats or buoys for marking anchors or moorings in place will be allowed. Fixed mooring piles or stakes are prohibited. All moorings must be so placed so that no vessel when anchored is at any time extended into the thoroughfare. All anchoring in the area is under the supervision of the local harbor master or such other authority as may be designated by the authorities of the Town of Falmouth, Maine.

Dated: July 31, 2006.

**Timothy S. Sullivan,**

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

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