



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[USCG-2011-0231]

RIN 1625-AA01

Anchorage Regulations; Wells, ME

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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SUMMARY: The Coast Guard is establishing three special anchorage areas in Wells Harbor, Wells, Maine. This action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages for vessels not more than 20 meters in length. This action is intended to increase the safety of life and property in Wells Harbor, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of vessel traffic and commerce.

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

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-0231

and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0231 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. John J. Mauro, Waterways Management Branch Chief, First Coast Guard District; telephone 617-223-8355, e-mail [John.J.Mauro@uscg.mil](mailto:John.J.Mauro@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 23, 2011, we published a notice of proposed rulemaking (NPRM) entitled "Anchorage Regulations; Wells, Maine" in the Federal Register (76 FR 52599). We received no comments on the proposed rule. A public meeting was not requested and none was held.

## Basis and Purpose

The legal basis for this rule is 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define anchorage grounds.

This rule is intended to reduce the risk of vessel collisions by creating three special anchorage areas in the western, central and eastern portions of Wells Harbor creating anchorage for approximately 150 vessels.

## Background

This rule creates three new special anchorage areas in Wells, Maine. These three new special anchorage areas in Wells Harbor are described below. All coordinates are North American Datum 1983 (NAD 83).

Vessels not more than 20 meters in length are not required to sound signals as per Rule 35 of the Inland Navigation Rules (33 U.S.C. 2035) nor exhibit anchor lights or shapes as per Rule 30 of the Inland Navigation Rules (33 U.S.C 2030) when at anchor in a special anchorage area. Mariners utilizing the anchorage areas are encouraged to contact local and state authorities, such as the local harbormaster, to ensure compliance with any additional applicable state and local laws. Such laws may involve,

for example, compliance with direction from the local harbormaster when placing or using moorings within the anchorage.

#### Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rulemaking. We have finalized the rule as proposed, without change.

#### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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.

Although this regulation may have some impact on the public, the potential impact will be minimized for the following reasons: Normal surface navigation will not be affected as this area has been historically used as a

mooring field by the Town of Wells and the number of vessels using the anchorage is limited due to depth (less than or equal to 18 feet).

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will 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 rule will not have a significant economic impact on a substantial number of small entities. This rule could affect the following entities, some of which might be small entities: the owners or operators of recreational and small fishing vessels intending to anchor in Wells Harbor. The rule will not have a significant economic impact on a substantial number of small entities for the following reasons: normal surface navigation will not be affected as this area has been historically used as a mooring field by the Town of Wells and the number of vessels using the anchorage is limited due to depth (less than or equal to 18

feet).

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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.

### Collection of Information

This rule calls 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 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 (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.

### Taking of Private Property

This rule will not cause 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 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 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 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.

#### Energy Effects

We have analyzed this 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(f) of the Instruction because it involves the establishment of special anchorage grounds. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

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; 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Add § 110.9 to subpart A to read as follows:

§ 110.9 Wells Harbor, Maine.

(a) Anchorage "A". All of the waters enclosed by a line beginning at latitude 43° 19' 15.7" N, longitude 070° 33' 42.1" W; thence to latitude 43° 19' 15.7" N, longitude 070° 33' 40.3" W; thence to latitude 43° 19' 2.6" N, longitude 070° 33' 45.7" W; thence to latitude 43° 19' 3.7" N, longitude 70° 33' 42.6" W; thence to the point of beginning. This area is approximately 5,800 sq. yards, encompassing the central portion of Wells Harbor.

(b) Anchorage "B". All of the waters enclosed by a line beginning at latitude 43° 19' 11.1" N, longitude 070° 33' 49.8" W; thence to latitude 43° 19' 10.5" N, longitude 070° 33' 47.3" W; thence to latitude 43° 19' 8.7" N, longitude

070° 33' 50.6" W; thence to latitude 43° 19' 8.3" N, longitude 070° 33' 47.3" W; thence to the point of beginning. This area is approximately 25,000 sq. yards, encompassing the western portion of Wells Harbor.

(c) Anchorage "C". All of the waters enclosed by a line beginning at latitude 43° 19' 17.7" N, longitude 070° 33' 34.0" W; thence to latitude 43° 19' 18.4" N, longitude 070° 33' 32.9" W; thence to latitude 43° 19' 13.0" N, longitude 070° 33' 26.2" W; thence to latitude 43° 19' 13.8" N, longitude 070° 33' 25.5" W; thence to the point of beginning. This area is approximately 8,200 sq. yards, encompassing the eastern portion of Wells Harbor.

(d) Regulations: This area is principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors or moorings in place are allowed in this area. Fixed mooring piles or stakes are not

allowed. All moorings or anchors shall be placed well within the anchorage areas so that no portion of the hull or rigging will at any time extend outside of the anchorage.

Note to § 110.9: All anchoring in the areas is under the supervision of the Wells Harbor Master or other such authority as may be designated by the authorities of the Town of Wells, Maine. All coordinates referenced use datum: NAD 83.

Dated: NOV 21 2011

Daniel A. Neptun  
Rear Admiral, U.S. Coast Guard  
Commander, First Coast Guard District

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