



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 110

[Docket Number USCG-2016-0989]

RIN 1625-AA01

Special Anchorage Areas; Passagassawakeag River, Belfast Bay, Belfast, Maine

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish two special anchorage areas in the Passagassawakeag River in the vicinity of Belfast, Maine. This proposed action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages for vessels less than 20 meters in length. This action is intended to increase the safety of life and property in the Passagassawakeag River in the vicinity of Belfast, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of vessel traffic and commerce. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0989 in the Federal eRulemaking Portal <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, contact Mr. Craig Lapiejko, Waterways Management at Coast Guard First District, telephone (617) 223-8351, e-mail [craig.d.lapiejko@uscg.mil](mailto:craig.d.lapiejko@uscg.mil) or Chief Marine Science Technician Chris Bains, Waterways Management Division at Coast Guard Sector Northern New England, telephone (207) 347-5003, e-mail [chris.d.bains@uscg.mil](mailto:chris.d.bains@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background, Purpose, and Legal Basis**

Beginning in the fall of 2008, the Town of Belfast, Maine (ME) Harbor Committee began to discuss the possibility of designating a special anchorage area in the waters off Belfast in the Passagassawakeag River due to the rise of commercial and recreational vessel traffic. Over the next several years the Belfast harbormaster had several discussions with the First Coast Guard District, Waterways Management Division, to understand the processes involved with creating a special anchorage area. In March 2016, the harbormaster submitted a draft proposal to the Belfast City Council and subsequently the town began talks with Coast Guard Sector Northern New England regarding establishment of a special anchorage area in Belfast.

The proposed special anchorage areas are intended to reduce the risk of vessel collisions and to promote safe and efficient travel in the navigable channel of the Passagassawakeag River to the mouth of Belfast Bay clearly defining the mooring fields historically used by the town. All proposed coordinates are North American Datum 1983 (NAD 83).

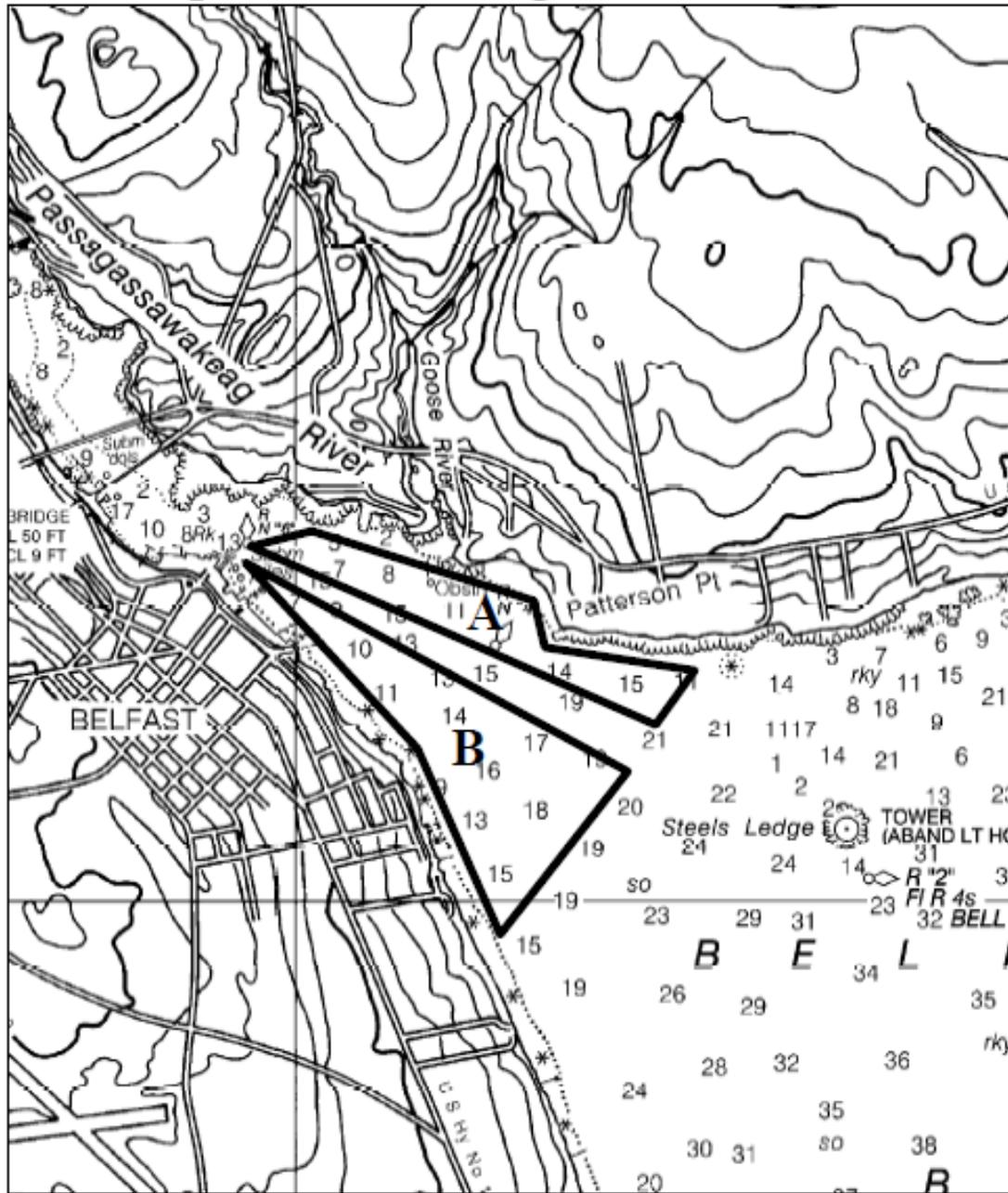
The rule is intended to reduce the risk of vessel collisions by creating two special anchorage areas in the Passagassawakeag River in the vicinity of the northeastern portion of Belfast, ME. The Coast Guard proposes this rulemaking under the authority established in 33 U.S.C. 471, 1221 through 1236, and 2071.

### **III. Discussion of Proposed Rule**

The proposed rule would create two special anchorage areas, referred to as special anchorage areas A and B in the Passagassawakeag River in the vicinity of Belfast, ME. Special anchorage area A is approximately 554,800 sq. yards and is on the north side of the river located between the mouth of the Goose River and Patterson Pt, downstream of the US RT 1 Bridge. Special anchorage area B is approximately 693,889 sq. yards and located along the southern shores of the river located between the Belfast Town docks to Belfast City Park.

Vessels less than 20 meters in length, when at anchor in these special anchorage areas, will not be required to sound signals or display anchorage lights or shapes when at anchor. Additionally, mariners using these 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.

# Passagassawakeag River, Belfast Bay, Belfast, Maine Special Anchorage Areas A & B



0 700 1,400 2,800 4,200 5,600 Yards



**LEGEND**

 Special Anchorage Areas

Additional illustrations showing the location of these proposed special anchorage areas are available in the docket.

#### **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 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

We anticipate the economic impact of the proposed rule to not be significant. This proposed determination is based on the historic and current use of the area as well as the minimal

impact this proposed rule would have on surface navigation. The potential impact would be minimized for the following reasons: 1) normal surface navigation will not be affected as these two areas in the Passagassawakeag River in the vicinity of the northeastern portion of Belfast has been historically used as a mooring field by the Town of Belfast; and 2) this proposed rule would simply permit eligible vessels in existing mooring areas to not to sound signals or exhibit anchor lights or shapes when at anchor there.

#### 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 transit the Passagassawakeag River in Belfast, ME may be small entities, for the reasons stated above in section IV.A, 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 (Pub. L. 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 above.

#### 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 the establishment of special anchorage areas. It appears that this action may be categorically excluded from further review under paragraph 34(f) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary Record of Environmental Consideration is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

## **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. Documents mentioned in this notice of proposed rulemaking as being available in the docket, and all public comments, are 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.

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 NPRM 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--ANCHORAGE REGULATIONS

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. Amend § 110.4 to by adding paragraph (d) to read as follows:

#### § 110.4 Penobscott Bay, Maine.

\* \* \* \* \*

#### (d) Passagassawakeag River, Belfast Bay, Belfast, Maine.-- (1) *Special anchorage area*

A. All of the waters enclosed by a line beginning at latitude 44° 25' 23" N, longitude 068° 58' 55" W; thence to latitude 44° 25' 30" N, longitude 068° 58' 48" W; thence to latitude 44° 25' 33" N, longitude 068° 59' 15" W; thence to latitude 44° 25' 39" N, longitude 068° 59' 17" W; thence to latitude 44° 25' 48" N, longitude 068° 59' 57" W; thence to latitude 44° 25' 46" N, longitude 069° 00' 08" W; thence to the point of beginning.

(2) *Special anchorage area B.* All of the waters enclosed by a line beginning at latitude 44° 25' 17" N, longitude 068° 59' 00" W; thence to latitude 44° 24' 56" N, longitude 068° 59' 23" W; thence to latitude 44° 25' 20" N, longitude 068° 59' 38" W; thence to latitude 44° 25' 44" N, longitude 069° 00' 09" W; thence to the point of beginning.

Note to § 110.4(d): All coordinates referenced use datum: NAD 83. All anchoring in the areas is under the supervision of the town of Belfast harbormaster or other such authority as may be designated by the authorities of the Town of Belfast, Maine. Mariners using these special

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.

Dated: September 7, 2017

S. D. Poulin,  
Rear Admiral, U.S. Coast Guard  
Commander, First Coast Guard District.

[FR Doc. 2017-21231 Filed: 10/2/2017 8:45 am; Publication Date: 10/3/2017]