

to be available for student aid) from appropriations of the Departments of Defense, Transportation (with respect to military recruiting), Labor, Health and Human Services, Education, and Related Agencies to schools that have a policy or practice of denying military recruiting personnel entry to campuses, access to students on campuses, or access to student recruiting information. Implementing regulations are codified at 32 CFR part 216.

This letter provides you an opportunity to clarify your institution's policy regarding military recruiting on the campus of ABC College. In that regard, I request, within the next 30 days, a written policy statement of the institution with respect to access to campus and students, and to student recruiting information by military recruiting personnel.

Your response should highlight any difference between access for military recruiters and access for recruiting by other potential employers.

Based on this information, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. That decision may affect eligibility for funding from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and Related Agencies. Should it be determined that ABC College is in violation of the aforementioned statutes, such funding would be stopped, and the school would be ineligible to receive such funds in the future.

I regret that this action may have to be taken. Successful recruiting requires that Department of Defense recruiters have reasonable access to students on the campuses of colleges and universities, and at the same time have effective relationships with the officials and student bodies of those institutions. I hope it will be possible to (define the correction to the aforementioned problem area(s)). I am available to answer any questions.

Sincerely,

#### Appendix B of Part 216—ROTC Sample Letter of Inquiry

(Tailor Letter to Situation Presented)

Dr. Jane Smith  
President  
ABC College

Anywhere, USA 12345-9876

Dear Dr. Smith: I understand that ABC College has (refused a request from a Military Department to establish a Senior ROTC unit at your institution) (refused to continue existing ROTC programs at your institution) (prevented students from participation at a Senior ROTC program at another institution) by a policy or practice of the College. Current law<sup>1</sup> prohibits funds by grant or contract (including a grant of funds to be available for student aid) from appropriations of the Departments of Defense, Labor, Health and Human Services, Education, and Related Agencies to schools that have a policy or practice prohibiting or preventing the Secretary of Defense from maintaining, establishing, or efficiently operating a Senior

ROTC unit. Those statutes also bar agency funds for schools that prohibit or prevent a student from enrolling in an ROTC unit at another institution of higher education. Implementing regulations are codified at 32 CFR part 216.

This letter provides you an opportunity to clarify your institution's policy regarding ROTC access on the campus of ABC College. In that regard, I request, within the next 30 days, a written statement of the institution with respect to (define the problem area(s)).

Based on this information, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. The decision may affect eligibility for funding from appropriations of the Departments of Defense, Labor, Health and Human Services, Education, and Related Agencies. Should it be determined that ABC College is in violation of the aforementioned statutes, such funding would be stopped, and the school would be ineligible to receive such funds in the future.

I regret that this action may have to be taken. Successful officer procurement requires that the Department of Defense maintain a strong ROTC program. I hope it will be possible to (define the correction to the aforementioned problem area(s)). I am available to answer any questions.

Sincerely,

Dated: March 25, 2006.

**L.M. Bynum,**

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

[FR Doc. 06-5008 Filed 5-31-06; 8:45am]

**BILLING CODE 5001-06-M**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-05-106]

RIN 1625-AA11

#### Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule; change in effective period and request for comments.

**SUMMARY:** The Coast Guard is amending the temporary regulated navigation area (RNA) from the entrance of East Rockaway Inlet to the Atlantic Beach Bridge, Nassau County, New York, and is extending its effective period. Significant shoaling in this area has reduced the depths of the navigable channel and has increased the risk of vessels with drafts of greater than 5 feet

carrying petroleum products as cargo grounding in the channel, and the potential for a significant oil spill. This rule will continue to restrict passage of commercial vessels carrying petroleum products with a loaded draft in excess of 5 feet.

**DATES:** The amendment to § 165.T01-106 in this rule is effective May 31, 2006. Section 165.T01-106, added at 70 FR 74676, December 16, 2005, effective from 6 a.m., November 29, 2005, to 11:59 p.m., May 31, 2006, as amended in this rule, is extended in effect until December 1, 2006. Comments and related material must reach the Coast Guard on or before July 31, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01-05-106 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade D. Miller, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468-4596.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On December 16, 2005, we published a temporary final rule (TFR) entitled "Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY" in the *Federal Register* (70 FR 74676). The effective period for that rule is from 6 a.m., November 29, 2005, to 11:59 a.m., May 31, 2006.

We did not publish a notice of proposed rulemaking (NPRM) for this TFR that would revise and extend the effective period of the existing RNA regulation, 33 CFR 165.T01-106. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This TFR is urgently needed to protect the maritime public from shoaling hazards in East Rockaway Inlet. Specifically, action is needed to prevent vessels carrying petroleum products as cargo with a loaded draft of greater than 5 feet from transiting the area so as to avoid the potential hazards associated with a grounding of a vessel.

East Rockaway Inlet has experienced significant shoaling causing the channel to migrate towards the west. Water depths in the federal navigation channel have been reduced in some areas to as low as 5 feet. This channel was last dredged by the Army Corps of Engineers during the winter of 2004-2005. However, the shoaling in this area has

<sup>1</sup> 10 U.S.C. 983 and 110 Stat. 3009.

reduced depths to a point where transit for vessels drawing greater than 5 feet increases the immediate risk of grounding. Therefore, the Coast Guard has relocated the channel buoys to the west to account for channel migration. While these aids now mark the deepest water in the channel, this channel has experienced rapid shoaling in the past, and is expected to experience the same in the future. The potential for significant shoaling continues to present a danger to the maritime public and thus appropriate regulatory measures are needed to continue to protect the maritime public from those hazards in East Rockaway Inlet. Accordingly, the Coast Guard anticipates that permanent regulations will be needed to protect the maritime users from the risk of grounding as well as the general public from the grounding hazards and resultant potential consequences of discharging petroleum into the navigable channel and surrounding area.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by this rule were designed to prevent vessels carrying petroleum products as cargo with a loaded draft of greater than 5 feet from transiting the area so as to avoid the potential hazards associated with a grounding of a vessel and potential resultant discharge of petroleum products. The delay inherent in the NPRM process for developing a permanent rule is contrary to the public interest insofar as it may render vessels at risk for grounding in the interim. The Coast Guard anticipates that it will publish an NPRM to establish a permanent regulated navigation area addressing the passage of commercial vessels carrying petroleum products with a loaded draft in excess of 5 feet through East Rockaway Inlet.

Specifically, the extension of the effective period of the temporary final rule will allow sufficient time for the public to participate in the permanent rulemaking process. As described herein, the temporary final rule currently in effect is revised and its effective date is extended. This extension period will allow for the continued protection of the maritime public from the particular grounding hazards that continue to affect the Rockaway Inlet while a permanent rule is developed.

Although we have good cause to publish this rule without prior notice and comment, we value public comments. As a result, we are soliciting your comments on this temporary rule

and may revise the temporary rule in response to public comments.

### Background and Purpose

East Rockaway Inlet is on the South Shore of Long Island, in Nassau County, New York. The Inlet has experienced significant shoaling since dredging was completed in the late winter of 2004/2005, causing the channel to migrate towards the west. Water depths in the area designated by the Army Corps of Engineers as the federal navigation channel have been reduced in some areas to as low as 5 feet. This channel was last dredged by the Army Corps of Engineers during the winter of 2004/2005. The channel buoys were relocated to the west to account for channel migration. East Rockaway Inlet is frequented by small coastal tankers and tugs towing oil barges supplying two facilities: Sprague Energy Oceanside, located in Oceanside, Long Island, New York, a supplier of home heating oil for Long Island, New York, and Keyspan E.S. Barrett, an electrical power generation facility, located in Island Park, Long Island, New York. The shoaling in this area has reduced depths to a point where transit for vessels drawing greater than 5 feet increases the risk of immediate grounding, and the potential for a significant oil spill resulting from a grounding. Similar shoaling led to the groundings in late 2003 and in 2004 of small coastal tankers carrying home heating oil.

The Coast Guard is extending the effective date of this rule until December 1, 2006, to allow the establishment of a permanent regulated navigation area by notice and comment rulemaking. Continuing the requirements in temporary § 165.T01-106, as amended herein, will allow us to ensure the public has sufficient time to participate in the rulemaking process while we also fulfill our maritime safety duties.

### Discussion of Rule

This rule will continue to provide for the safety of vessel traffic and the maritime public in and around East Rockaway Inlet, Long Island, New York. This TFR extends the effective period of a temporary regulated navigation area (RNA) on the navigable waters of the East Rockaway Inlet in an area bounded by lines drawn from the approximate position of the Silver Point breakwater buoy (LLN 31500) at 40°34'56" N, 073°45'19" W, running north to a point of land on the northwest side of the inlet at position 40°35'28" N, 073°46'12" W, thence easterly along the shore to the east side of the Atlantic Beach Bridge, State Route 878, over East Rockaway

Inlet, thence across said bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning.

The temporary § 165.T01-106 that this TFR is extending prohibits the transit of vessels carrying petroleum products as cargo, with a loaded draft greater than 5 feet, through the RNA. Paragraph (b) of § 165.T01-106 has been revised to list the factors the COTP will consider when considering requests to enter or transit the RNA: environmental and safety factors, including, but not limited to: weather conditions affecting transit (*e.g.*, sea state, state of the tide, winds, and visibility,) the loaded draft of the particular vessel seeking to transit the area, and the minimum under keel clearance of the particular vessel. Operators of vessels carrying petroleum products as cargo with a loaded draft greater than 5 feet may submit a request to transit the regulated navigation area.

The Coast Guard is extending the effective period of the amended temporary § 165.T01-106 until December 1, 2006, allowing sufficient time for public participation and comment during this rulemaking process in anticipation of the development of a permanent rule. The RNA in temporary § 165.T01-106 will remain in effect until December 1, 2006. We have not revised paragraph (a), which defines the location of the RNA, but we are republishing it in this rule so readers can see the entire regulatory text in this document.

Any violation of the RNA described herein, is punishable by, among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

In addition to publishing this TFR in the **Federal Register**, the Captain of the Port Long Island Sound will notify the maritime community of the requirements of this regulated navigation area via broadcast notifications and notifications in the local notice to mariners.

### Regulatory Evaluation

This 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule will be so minimal that a full Regulatory Evaluation under the

regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: the regulated navigation area limits only vessels carrying petroleum products as cargo with a loaded draft of greater than 5 feet; operators of vessels with a loaded draft of greater than 5 feet may request permission to transit the regulated navigation area from the Captain of the Port, Long Island Sound. Recreational and other maritime traffic not covered by this rule is not prohibited from transiting this area.

#### 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels carrying petroleum products intending to transit or anchor in those portions of the East Rockaway Inlet covered by the regulated navigation area; Sprague Energy Oceanside, located in Oceanside, Long Island, New York, a supplier of home heating oil, and Keyspan E.S. Barrett, an electrical power generation facility, located in Island Park, Long Island, New York, which both receive the vessels affected by this regulated navigation area. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant 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 subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects

on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant Junior Grade D. Miller, Waterways Management Division, Coast Guard Sector Long Island Sound, at (203) 468–4596.

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).

#### 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 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 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 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 will not concern an environmental risk to health or risk to safety that may 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 will 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

#### 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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 Commandant Instruction M16475.1D 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 concluded that there are no factors in this case that would limit the use of a categorical exclusion under 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would change a regulated navigation area. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**. 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 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend temporary § 165.T01–106, by revising paragraphs (b) and (c), and republish paragraph (a), to read as follows:

#### § 165.T01–106 Regulated Navigation Area, East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, New York.

(a) *Location.* The following area is established as a Regulated Navigation Area: All waters of East Rockaway Inlet in an area bounded by lines drawn from the approximate position of the Silver Point breakwater buoy (LLN 31500) at 40°34′56″ N, 073°45′19″ W, running north to a point of land on the northwest side of the inlet at position 40°35′28″ N, 073°46′12″ W, thence easterly along the shore to the east side of the Atlantic Beach Bridge, State Route 878, over East Rockaway Inlet, thence across the bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning.

(b) *Regulations.* (1) Vessels carrying petroleum products as cargo, with a loaded draft greater than 5 feet, are prohibited from transiting within the regulated navigation area.

(2) Operators of vessels carrying petroleum products as cargo with a loaded draft greater than 5 feet must request to transit the regulated navigation area to the Captain of the Port, Long Island Sound (COTP). Factors the COTP will consider before granting permission to enter or transit the RNA described in paragraph (a) of this section are: Environmental and safety factors, including, but not limited to: Weather conditions affecting transit (e.g., sea state, state of the tide, winds, and visibility), the loaded draft of the particular vessel seeking to transit the area, and the minimum under keel clearance of the particular vessel.

(c) *Effective period.* This section is effective from 6 a.m. on November 29, 2005 until December 1, 2006.

Dated: May 23, 2006.

**Mark J. Campbell,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 06–5032 Filed 5–26–06; 3:49 pm]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05–06–052]

RIN 1625–AA87

#### Security Zone; Severn River and College Creek, Annapolis, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule; correction.

**SUMMARY:** The Coast Guard published a document in the **Federal Register** on May 25, 2006 (71 FR 30060), establishing a temporary security zone on the Severn River and College Creek during Vice President Cheney’s attendance at the commencement at the U.S. Naval Academy in Annapolis, Maryland. The document contained incorrect coordinates to describe the security zone.

**DATES:** The correction to this rule is effective May 25, 2006. The rule itself is effective May 26, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–06–052 and are available for inspection or copying at Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Ronald L. Houck, Waterways Management Division, U.S. Coast Guard Sector Baltimore, telephone 410–576–2674, Fax 410–576–2553.

**SUPPLEMENTARY INFORMATION:** In FR Doc. E6–8068 appearing on page 30060 in the **Federal Register** of May 25, 2006, the following correction is made:

#### § 165.35–T05–052 [Corrected]

■ 1. On page 30062, in the first column, in § 165.35–T05–052 Severn River and College Creek, Annapolis, MD, revise paragraph (b) to read as follows:

“The following area is a security zone: All waters of the Severn River, from shoreline to shoreline, bounded by a line drawn from Horseshoe Point eastward across the Severn River to a point located at 39°00′01.5″ N., 076°29′08.5″ W., and a line drawn from Biemans Point westward across the Severn River to a point located at 38°59′04″ N., 076°28′50″ W., located at the Naval Academy Waterfront. This security zone includes the waters of College Creek eastward of the King George Street Bridge (NAD 1983).”

Dated: May 25, 2006.

**Stefan G. Venckus,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

[FR Doc. E6–8428 Filed 5–31–06; 8:45 am]

**BILLING CODE 4910–15–P**