

Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576-2693. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF Channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the person or vessel shall proceed as directed. If permission is granted, all persons or vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland, and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Effective period.* This section will be enforced from 2 p.m. through 7 p.m. local time on September 8, 2006.

Dated: August 11, 2006.

**Jonathan C. Burton,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-06-108]

RIN 1625-AA00

#### **Safety Zone; Blasting Operations, Demolition of Mattabassett Outfall, Connecticut River, Cromwell, CT**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the demolition of the Mattabassett Outfall from August 9, 2006 through August 30, 2006 in the waters of the Connecticut River off Cromwell, CT. The zone will temporarily close all waters in the vicinity of the Mattabassett Outfall within a three hundred (300) yard radius of the blasting operations. This temporary safety zone is necessary to protect the maritime community transiting the area from the potential safety hazards associated with demolition and blasting operations. The safety zone temporarily prohibits entry into or movement within this portion of the Connecticut River during the closure period, unless authorized by the Captain of the Port (COTP), Long Island Sound or the COTP's designated representative.

**DATES:** This rule is effective from 7 a.m. EDT August 9, 2006 through 6 p.m. EDT on August 30, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD01-06-108 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, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468-4596.

**SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM because the logistics of the blasting operations were not presented to the Coast Guard with sufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of the Connecticut River during the blasting operations and to provide for the safety of life on navigable waters.

For the same reasons, the Coast Guard finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The zone should have a minimal negative impact on the public and navigation as it will only be enforced for short periods of time during the actual blasting operations and not enforced during the entire effective period, allowing vessels to safely transit the Connecticut River off Cromwell, CT.

#### **Background and Purpose**

The Mattabassett Outfall located in Cromwell, CT, is currently being demolished. When detonated, spread of the debris will be minimized by blast matting. The blasting and demolition activities have been approved by the Connecticut Department of Environmental Protection. This blasting will also require a Coast Guard explosives handling permit in accordance with 49 CFR 176 as the explosives being used are being loaded onto vessels prior to being placed on the respective piers. The loading of explosives onto vessels will be monitored by Coast Guard personnel.

#### **Discussion of Rule**

This regulation establishes a temporary safety zone on the waters of the Connecticut River, off Cromwell, CT, within a 300-yard radius of the blasting operations being conducted at the Mattabassett Outfall.

This action is intended to prohibit vessel traffic in a portion of the Connecticut River of Cromwell, CT, and to provide for the protection of life and property of the maritime public. The safety zone will be enforced for relatively short periods of time during the actual blasting operations. Therefore, the zone will not be enforced during the entire effective period from 7 a.m. EDT August 9, 2006 through 6 p.m. EDT on August 30, 2006. Marine traffic may transit safely through the safety zone during the period when blasting operations are not underway. All blasting operations shall be preceded 5 minutes before the blast by 3 whistles; an additional 2 whistles will be given 1 minute prior to the blast with a final single whistle after the blast indicating the "all clear."

The Captain of the Port anticipates minimal negative impact on vessel traffic as the safety zone will only be enforced for short periods of time during the actual blasting operations and not enforced during the entire effective period. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

#### **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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This rule will have minimal impact on the public for the following reasons: This zone covers only a small portion of the waters of the Connecticut River, and there is no impact on commercial vessels. Additionally, the safety zone will only be enforced for relatively short periods during blasting operations.

#### **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 intending to transit or anchor in those portions of the Connecticut River covered by the safety zone. 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.

#### Assistance for Small Entities

Under subsection 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 rule so that they can better evaluate its effects on them and participate in the rulemaking. 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, Chief, Waterways Management Division, 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 effect 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.

#### 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 the categorical exclusion under section 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.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**.

#### 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. 1226, 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. Add temporary § 165.T01–108 to read as follows:

**§ 165.T01–108 Safety Zone; Blasting Operations, Demolition of Matabasett Outfall, Connecticut River, Cromwell, CT.**

(a) *Location.* The following area is a safety zone: All waters of the Connecticut River, from surface to bottom, within a three hundred (300) yard radius of the blasting operations at Matabasett Outfall located off Cromwell, CT.

(b) *Enforcement period.* This rule is effective from 7 a.m. EDT August 9, 2006 through 6 p.m. EDT on August 30, 2006.

(c) *Definitions.* (1) As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) [Reserved]

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic during blasting operations, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: August 3, 2006.

**P. J. Boynton,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

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**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 242**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 100**

**RIN 1018–AU70**

**Subsistence Management Regulations for Public Lands in Alaska, Subpart A; Makhnati Island Area**

**AGENCIES:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the jurisdiction of the Federal Subsistence Management Program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, Alaska. This would then allow Federal subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in Federal Subsistence Management regulations.

**DATES:** This rule will be effective September 25, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region, (907) 786–3888.

**ADDRESSES:** You may obtain additional information by contacting the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska 99503.

**SUPPLEMENTARY INFORMATION:**

**Background**

In Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), Congress found that “the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses \* \* \*” and that “continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened \* \* \* .” As a result, Title VIII requires, among other things, that the Secretary of the Interior and the Secretary of Agriculture

(Secretaries) implement a program to provide for rural Alaska residents a priority for the taking for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, priority, and participation specified in Sections 803, 804, and 805 of ANILCA.

The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural priority in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* caused the State to delete the rural priority from the subsistence statute, an action which therefore negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990. As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Departments published the Temporary Subsistence Management Regulations for Public Lands in Alaska in the **Federal Register** (55 FR 27114). Permanent regulations were jointly published on May 29, 1992 (57 FR 22940), and have been amended since then.

As a result of this joint process between Interior and Agriculture, these regulations can be found in the Code of Federal Regulations (CFR) both in title 36, “Parks, Forests, and Public Property,” and title 50, “Wildlife and Fisheries,” at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain the following subparts: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subparts A, B, and C of these regulations, as revised May 7, 2002 (67 FR 30559), and December 27, 2005 (70 FR 76400), the Departments established a Federal Subsistence Board (Board) to administer the Federal Subsistence Management Program, as established by the Secretaries. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of