

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant William George, Waterways Management Division, Coast Guard Sector New York; telephone 718-354-4114, e-mail William.J.George@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to ensure the safety of the public in the vicinity of munitions recently discovered in Gravesend Bay by civilian divers. U.S. Navy underwater surveys confirmed the location of unexploded ordnance in Gravesend Bay. In the interest of public safety the U.S. Navy has requested that the Coast Guard restrict access to the area in which the munitions are located until the munitions can be rendered safe and removed. Immediate action is required to ensure that no unauthorized persons and vessels travel through or conduct underwater activities that may disturb the current location of the unexploded ordnance, such as dive operations or anchoring within close proximity to the unexploded munitions. Publishing a NPRM and waiting 30 days for comment would be contrary to the public interest because any delay in the effective date of this rule would expose mariners, the boating public, and divers to the potential hazards associated with unexploded ordnance. Furthermore, a separate notice of proposed rulemaking will be pursued, where the public will have the opportunity to provide comment.

For these reasons, 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**.

Basis and Purpose

In response to media reports of military munitions found in Gravesend Bay by civilian divers, U.S. Navy Explosive Ordnance Disposal divers from Naval Weapons Station Earle conducted underwater surveys and confirmed the location of munitions on the bottom of Gravesend Bay. The munitions consist of approximately 1,500 rounds of 20mm ammunition, one 3-inch diameter projectile and two cartridge casings.

In the interest of public safety, the U.S. Navy has requested that the Coast Guard limit access to the location in Gravesend Bay where the munitions are located until the ordnance could be rendered safe and removed.

This temporary safety zone is necessary to ensure the safety of mariners, vessels, and civilian divers from the potential hazards associated with unexploded military munitions. This temporary final rule is an interim measure while a long-term rulemaking process is pursued separately under docket number USCG-2010-1091.

Discussion of Rule

The Captain of the Port New York is establishing a temporary safety zone around the location of the unexploded ordnance site to ensure the safety of mariners and vessels transiting in the vicinity of unexploded ordnance as well as divers intending to dive in the area.

The safety zone will encompass all waters of Gravesend Bay within 110-yard radius of a point at the approximate position 40°36'30" N, 074°02'14" W (NAD 83), approximately 70 yards southeast of the Verrazano Bridge Brooklyn tower.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, anchoring, or diving within the safety zone is prohibited unless authorized by the Captain of the Port New York, or the on-scene representative. The Captain of the Port or the on-scene representative may be contacted via VHF Channel 16.

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.

Regulatory Planning and Review

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.

This rule temporarily restricts access to a small portion of Gravesend Bay until unexploded military ordnance are rendered safe and removed. The safety zone is located in an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation. This rule is intended to protect the public from the hazards associated with unexploded ordnance. Furthermore, vessels will be able to safely transit around the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of Gravesend Bay, in the vicinity of the Verrazano Bridge, Brooklyn, NY.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely transit around the zone. The rule limits access to a relatively small portion of the waterway where there is a known hazard until the hazard is rendered safe. Before the effective period, we will issue maritime advisories widely available to users of the waterway.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can 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 does not create 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 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.ID, 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 this action is one of a

category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone on the waters of Gravesend Bay until recently discovered military munitions are rendered safe and removed from the area. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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. A new temporary § 165.T01-1126 is added as follows:

§ 165.T01-1126 Safety Zone; Underwater Hazard, Gravesend Bay, Brooklyn, NY.

(a) *Regulated area.* The following area is a temporary safety zone: All waters of Gravesend Bay within 110-yard radius of a point at the approximate position 40°36'30" N, 074°02'14" W (NAD 83), approximately 70-yards southeast of the Verrazano Bridge Brooklyn tower.

(b) *Effective period.* This regulation is effective from 12:01 a.m. on December 18, 2010 until 11:59 p.m. June 30, 2011.

(c) *Regulations.* (1) The general regulation contained in 33 CFR 165.23 apply.

(2) Entry into or movement within this zone is prohibited unless authorized by the Captain of the Port New York.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port New York or the designated on-scene-patrol personnel. These designated on-scene-patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

Dated: December 17, 2010.

L.L. Fagan,

Captain, U.S. Coast Guard, Captain of the Port New York.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-1120]

RIN 1625-AA00

Safety Zone; 500 Yards North and South, Bank to Bank, of Position 29°48.77' N 091°33.02' W, Charenton Drainage and Navigation Canal, St. Mary Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone extending 500 yards North and South, bank to bank, of position 29°48.77' N 091°33.02' W, Charenton Drainage and Navigation Canal, St. Mary Parish, LA. This Safety Zone is needed to protect the general public, vessels and tows from destruction, loss or injury due to a sunken vessel and associated hazards.

DATES: This rule is effective in the CFR on January 26, 2011 through June 30, 2011. This rule is enforceable with actual notice January 7, 2011. This rule will remain in effect until June 30, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-1120 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-1120 in the "Keyword" box, and then clicking "Search." They are 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 temporary rule, call or e-mail Lieutenant (LT) Russell Pickering, Coast Guard; telephone 985-380-5334, e-mail russell.t.pickering@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable, since immediate action is needed to protect the general public, vessel and tows from a sunken vessel and associated hazards in position 29°48.77' N 091°33.02' W, in the Charenton Drainage and Navigation Canal.

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**. Publishing an NPRM and delaying its effective date would be impracticable since immediate action is needed to protect the general public, vessel and tows from destruction, loss or injury due to a sunken vessel and associated hazards in position 29°48.77' N 091°33.02' W.

Background and Purpose

A Mobile Inshore Drilling Rig (Hercules Rig 61) scheduled for scrap sank in the Charenton Navigation and Drainage Canal. A safety zone is needed to protect the general public, vessels and tows from destruction, loss or injury from a sunken vessel and associated hazards during the response action.

Discussion of Rule

The Coast Guard is establishing a temporary Safety Zone 500 yards North and South, bank to bank, of position 29°48.77' N 091°33.02' W within the Charenton Drainage and Navigation Canal. The temporary Safety Zone is established for the period from January 7, 2011, through June 30, 2011. Vessels and tows may not enter this zone unless authorized by the Captain of the Port Morgan City.

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.

Regulatory Planning and Review

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.

This rule will only be in effect for a limited period of time and notifications to the marine community will be made through broadcast notice to mariners and Local Notice to Mariners. Vessels needing to transit the area can request permission from the Captain of the Port. The impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this 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 rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit through the Safety Zone from January 7, 2011 to June 30, 2011. This Safety Zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only a short period of time, and vessels that need to transit the area while the safety zone is effective can request permission from the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can 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