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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0338 to read as follows:

§ 165.T09–0338 Safety Zone; Tugs Kimberly Anne and Westwind and Barge Big Digger operating in the Straits of Mackinac, MI.

(a) *Location.* The following areas are safety zones: All navigable water within 500 yards of the Tugs Kimberly Anne and Westwind and Barge Big Digger while conducting work, inspection, diving, and surveying of pipelines in the Straits of Mackinac.

(b) *Definitions.* 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 Sault Sainte Marie (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) is prohibited unless authorized by the Captain of the Port, Sault Sainte Marie or his designated representative.

(2) Before a vessel operator may enter or operate within the safety zones, they must obtain permission from the Captain of the Port, Sault Sainte Marie, or his designated representative via VHF Channel 16 or telephone at (906) 635–3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port, Sault Sainte Marie or his designated representative.

(d) *Enforcement period.* This section will be enforced from June 1, 2021 to October 15, 2021.

Dated: May 20th, 2021.

A.R. Jones,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

[FR Doc. 2021–11119 Filed 5–25–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0206]

RIN 1625–AA00

Safety Zone; East River, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the east channel of the East River between the Roosevelt Island Bridge (mile 6.4) and Gibbs Point approximately 800 yards northeast of the bridge. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the retrieval, maintenance and reinstallation of one TriFrame with three attached underwater turbines, associated cabling, and three Private Aids to Navigation. When enforced, entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port New York.

DATES: This rule is effective without actual notice from May 26, 2021 through 11:59 p.m., May 27, 2021. For the purposes of enforcement, actual notice will be used from 3:30 p.m., May 3, 2021 until May 26, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0206 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jeff Yunker, Sector New York Waterways Management Division; U. S. Coast Guard; telephone 718–354–4195, email *jeffrey.m.yunker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of proposed rulemaking
PATON Private Aids to Navigation
RITE Roosevelt Island Tidal Energy Project
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 it is impracticable. Four barges, four tugs, and three work vessels will be conducting heavy lift operations and removing and reinstalling three PATON in the east channel of the East River, north of the Roosevelt Island Bridge, while removing, maintaining and reinstalling one TriFrame with three underwater turbines for the RITE Project. It is impracticable to publish an NPRM because we must establish this safety zone by May 3, 2021 to respond to the potential safety hazards associated with heavy lift operations and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. The Coast Guard is publishing this rule to be effective through May 27, 2021 in case the project is delayed due to unforeseen circumstances.

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**. Delaying the effective date of this rule would be impracticable and against the public interest because immediate action is needed to respond to the potential safety hazards associated with multiple construction vessels operating within a confined area of the East River.

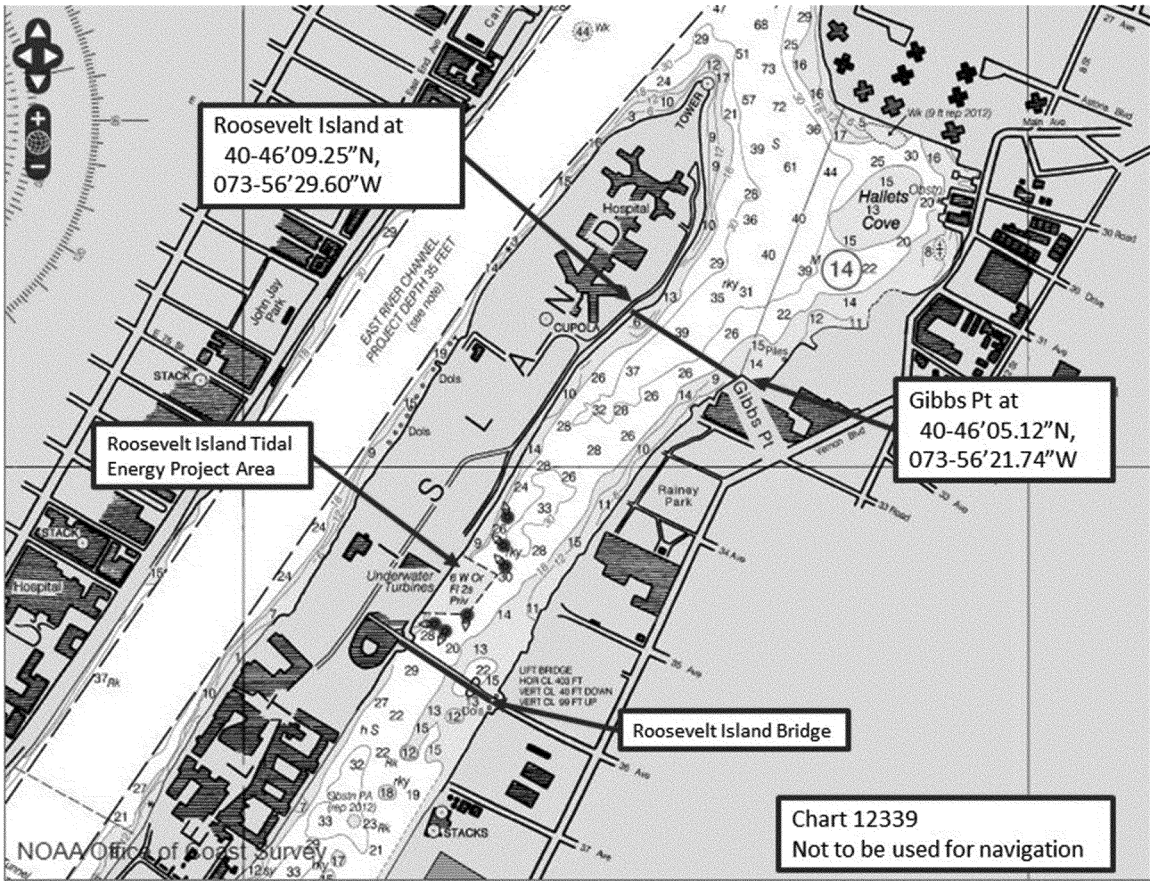
III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port New York (COTP) has determined that potential hazards associated with the installation of the RITE Project TriFrame with three turbines and associated PATON marking this installation on May 3–6,

2021, will be a safety concern for anyone in the East River, east of Roosevelt Island, between the Roosevelt Island Bridge (mile 6.4) and Gibbs Point. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while eleven tugs, barges and work vessels are installing one TriFrame with three underwater turbines and three PATON marking the RITE Project area.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from May 3, 2021 through May 27, 2021. The safety zone will cover all navigable waters of the East River east of Roosevelt Island between the Roosevelt Island Bridge (mile 6.4) and Gibbs Point being used by vessels and personnel to retrieve, conduct maintenance, and reinstall Phase 1 of the RITE Project.



We anticipate enforcing the safety zone during the heavy lift operations for retrieval, maintenance, and reinstallation of the RITE Project TriFrame with three turbines and three associated PATON scheduled from approximately 3:30 p.m. on May 3, 2021, until 2:30 p.m. on May 6, 2021. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these constrained navigable waters while the project and PATON marking the project area are being retrieved for maintenance and reinstallation. When enforced, no vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The Coast Guard is publishing this rule to be effective through May 27, 2021 in case the project is delayed due to unforeseen circumstances.

V. Regulatory Analyses

We developed this 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, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 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. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of the East River for approximately 71 hours when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, publish the zone in the Local Notice to Mariners, and the rule will allow vessels to seek permission to enter the zone.

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 rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

C. Collection of Information

This rule will 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 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 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined 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 rule involves a safety zone lasting only 71 hours that will prohibit entry between the Roosevelt Island Bridge (mile 6.4) and Gibbs Point being used by vessels, machinery and personnel to retrieve, maintain, and reinstall Phase 1 of the RITE Project and three PATON marking the project area. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0206 to read as follows:

§ 165.T01–0206 Safety Zone; East River, New York, NY.

(a) *Location.* The following area is a safety zone: All waters of the East River, from surface to bottom, east of Roosevelt Island, upstream of the Roosevelt Island Bridge (mile 6.4) and downstream of a line connecting the following points: Gibbs Pt at (pa)40°46′05.12″ N, 073°56′21.74″W to Roosevelt Island at (pa) 40°46′09.25″ N, 073°56′29.60″W. These coordinates are based on NAD 83.

(b) *Definition.* 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 New York (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF-Channel 16 or at 718–354–4353. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective without actual notice from May 26, 2021 through 11:59 p.m., May 27, 2021. For the purposes of enforcement, actual notice will be used from 3:30 p.m., May 3, 2021 until May 26, 2021, but will only be enforced when Roosevelt Island Tidal Energy Project retrieval, maintenance, and reinstallation operations are in progress.

Dated: April 28, 2021.

Jason P. Tama,

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

[FR Doc. 2021–11103 Filed 5–25–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0349]

RIN 1625–AA00

Safety Zone; Explosive Arc at Military Ocean Terminal Concord, Suisun Bay, Concord, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the Suisun Bay, off Concord, CA, in support of explosive on-loading to Military Ocean Terminal Concord (MOTCO). This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective without actual notice from May 26, 2021 through 11:59 p.m. on June 4, 2021. For the purposes of enforcement, actual notice will be used from 12:01 a.m. May 24, 2021 until May 26, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0349 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Anthony Solarees, Waterways Management, U.S. Coast Guard; telephone (415) 399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port San Francisco
DHS Department of Homeland Security
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 with respect to this rule because it is impracticable. The Coast Guard received the initial report of larger explosive arc on May 18, 2021. It is impracticable to go through the full notice and comment rulemaking process because the Coast Guard must establish this temporary safety zone by May 24, 2021 and lacks sufficient time to provide a reasonable comment period and consider those comments before issuing the rule.

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**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to protect personnel, vessels, and the marine environment in the navigable waters around the potentially hazardous explosive on-loading.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco has determined that potential hazards associated with the explosive on-loading will exist between May 24, 2021 and June 4, 2021. There will be a safety concern for anyone within a 4,000-ft radius of the explosive on-load. For this reason, this temporary safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters surrounding the potentially hazardous on-loading operations.

IV. Discussion of the Rule

This rule establishes a temporary safety zone in the navigable waters around the explosives on-loading occurring at Military Ocean Terminal Concord (MOTCO), off Concord, CA for a five-day cargo operation period conducted between May 24, 2021 and June 4, 2021. The temporary safety zone will encompass the navigable waters of Suisun Bay, from surface to bottom, within a circle formed by connecting all points 4,000 feet out from the location of the explosive material at approximate position 38°3.46″ N, 122°0.90″ W or as announced via Broadcast Notice to Mariners. The projected explosive arc presents the need for a 4,000 foot radius, which is larger than the safety zone already established in 33 CFR 165.1198.

This regulation is necessary to keep persons and vessels away from the immediate vicinity of the explosive materials during cargo operations, to ensure the safety of personnel, vessels, and the marine environment. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted area. A ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

V. Regulatory Analyses

We developed this 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, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 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. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the water encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified to ensure the safety zone will result in minimum impact. The vessels desiring to transit through or around the temporary safety zone may do so upon express permission from the COTP or the COTP's designated representative.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,