

The text of the proposed amendments and additional details about how to submit written and oral testimony are available on the Commission's Web site, drbc.net.

Dated: February 1, 2011.

**John F. Calkin,**

*Attorney.*

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**BILLING CODE 6360-01-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

**[Docket No. USCG-2010-1091]**

**RIN 1625-AA00**

#### **Safety Zone; Underwater Hazard, Gravesend Bay, Brooklyn, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a permanent safety zone within the waters of Gravesend Bay, Brooklyn, New York. This proposed safety zone is necessary to provide for the protection of the maritime public and safety of navigation from recently discovered underwater explosive hazards in Gravesend Bay. This action is intended to restrict unauthorized persons and vessels from traveling through or conducting underwater activities within a portion of Gravesend Bay until recently discovered military munitions are rendered safe and removed from the area. Entry into this zone would be prohibited unless authorized by the Captain of the Port New York or the designated on-scene representative.

**DATES:** Comments and related material must be received by the Coast Guard on or before March 10, 2011. Requests for public meetings must be received by the Coast Guard on or before February 23, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-1091 using any one of the following methods:

- (1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- (2) *Fax:* 202-493-2251.
- (3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.
- (4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail LTJG Eunice James, Coast Guard; telephone (718) 354-4163, e-mail [Eunice.A.James@uscg.mil](mailto:Eunice.A.James@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG-2010-1091), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2010-1091" in the "Keyword" box. Click "Search" then click on the

balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

##### **Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2010-1091" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### **Privacy Act**

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

##### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one on or before February 23, 2011 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice 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 1500 rounds of 20mm ammunition, one 3-inch diameter projectile and two cartridge casings. The Captain of the Port (COTP) New York has established a temporary safety zone under docket number USCG-2010-1126 as an interim measure while this long-term rulemaking process is pursued.

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 can be rendered safe and removed.

This safety zone is necessary to ensure the safety of mariners, vessels, and civilian divers from the potential hazards associated with unexploded military munitions.

#### Discussion of Proposed Rule

The COTP New York proposes to establish a safety zone around the location of an unexploded munitions site to ensure the safety of mariners and vessels transiting near the location of the ordnance as well as divers intending to dive in the area.

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

Entry into the proposed safety zone by any person or vessel will be prohibited unless specifically authorized by the COTP New York, or the designated on-scene representative. Persons desiring to enter the safety zone may request permission to enter from the Coast Guard COTP via VHF Channel 16 or by contacting the Sector New York Command Center at (718) 354-4353.

The Coast Guard advises that entry into, transiting, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining within or anchoring in this safety zone will be prohibited unless authorized by the COTP New York or the designated on-scene representative.

The “designated on-scene representative” is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP New York to act on her behalf.

#### Regulatory Analyses

We developed this proposed 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 proposed 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.

Although this proposed rule restricts access to a small portion of Gravesend Bay until military munitions are rendered safe and removed, the effect of this regulation would not be significant due to the following reasons: the safety zone would cover only a small portion of the navigable waters within Gravesend Bay. Vessels would be able to safely transit around the area. In addition, vessels may be authorized to enter the zone with permission of the COTP New York.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would 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, fish, dive, or anchor in a portion of Gravesend Bay.

This proposed safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would limit access to a relatively small portion of the waterway. Vessel traffic could safely transit around the safety zone. Before the activation of the zone, we would issue maritime advisories widely available to users of the waterway in the vicinity of Gravesend Bay.

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 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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 e-mail LTJG Eunice James, Coast Guard Sector New York Waterways Management Division; telephone 718-354-4163, e-mail *Eunice.A.James@uscg.mil*. 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.

#### Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

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.

### Energy Effects

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did

not consider the use of voluntary consensus standards.

### 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 (NEPA) (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. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of a safety zone which can be categorically excluded, under figure 2-1, paragraph (34)(g), of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.171 to read as follows:

### § 165.171 Safety Zone; Underwater Hazard, Gravesend Bay, Brooklyn, NY.

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

(b) **Effective date.** This safety zone is effective on July 01, 2011, twenty-four hours a day, seven days a week.

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

(2) Entry into, transiting, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining within or anchoring within

this safety zone is prohibited unless authorized by the Captain of the Port New York or the designated on-scene representative.

(3) The "designated on-scene representative" is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port New York.

(4) Vessel operators desiring to enter or operate within the safety zone may contact the Captain of the Port New York or his designated representative at the Coast Guard Sector New York Command Center via VHF Channel 16 or by phone at (718) 354-4353 to request permission.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port New York or the on-scene representative.

Dated: January 14, 2011.

**L.L. Fagan,**

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

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**BILLING CODE 9110-04-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

## 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

## 50 CFR Part 100

[Docket No. FWS-R7-SM-2010-0066; [70101-1261-0000L6]]

**RIN 1018-AX33**

## Subsistence Management Regulations for Public Lands in Alaska—2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, methods and means related to taking of wildlife for subsistence uses during the 2012–2013 and 2013–2014 regulatory years. The Federal Subsistence Board is on a schedule of completing the process of revising subsistence taking of wildlife regulations in even-numbered years and subsistence taking of fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year.