

The waterway has seasonal recreational vessels, and commercial vessels of various sizes.

The owner of the bridge, New Jersey Department of Transportation, requested a temporary deviation to facilitate the replacement of sheaves and wire ropes at the bridge.

Under this temporary deviation the Witt Penn Bridge, mile 3.1, across the Hackensack River may remain in the closed position for bridge maintenance from September 8, 2009 through October 22, 2009. Vessels that can pass under the bridge without a bridge opening may do so at all times. This deviation has been coordinated with the waterway users.

The contractor will have a crane barge located at the bridge. The crane barge will move out of the main channel upon request after at least a 9 hour advance notice is given by calling the bridge at 201-795-0631.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 27, 2009.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E9-21561 Filed 9-4-09; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0595]

RIN 1625-AA00

#### **Safety Zone; Munitions and Explosives of Concern (MEC); Seal Island, ME**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Coast Guard is establishing a permanent safety zone around Seal Island, Maine from the shoreline out to the 60 foot depth curve. This safety zone prohibits persons and vessels from entering the designated area around Seal Island unless authorized by the Coast Guard Captain of the Port Northern New England. This safety zone is necessary to provide for the safety of life on the navigable waters around Seal Island by protecting mariners from the hazards of Munitions

and Explosives of Concern (MEC) found in the area.

**DATES:** This interim rule is effective September 8, 2009. Comments and related material must reach the Coast Guard on or before December 7, 2009. Requests for public meetings must be received by the Coast Guard on or before September 30, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG-2009-0595 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 interim rule, call or e-mail Chief Petty Officer Randy Bucklin, Coast Guard Sector Northern New England, Waterways Management Division; telephone 207-741-5440, e-mail [Randy.Bucklin@uscg.mil](mailto:Randy.Bucklin@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-2009-0595), 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://](http://www.regulations.gov)

[www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, 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-2009-0595" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit 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 this 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-2009-0595" 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 September 30, 2009 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**.

#### Regulatory Information

The Coast Guard is issuing this interim 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 “impractical, 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 a notice and comment period would be impractical due to the time needed to conduct a notice and comment period is contrary to the immediate need to implement this safety zone because of the imminent hazards posed by the Munitions and Explosives of Concern (MEC). Further, the expeditious implementation of this rule is in the public interest because it will help ensure the safety of those anchoring, fishing and other users of the waterway from the dangers of the MEC.

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**. As noted above, the Coast Guard finds that it is both impractical and contrary to public interest to delay the effective date of this rule for 30 days after publication. Immediate action is needed in order to ensure the safety of those anchoring, fishing, and otherwise using the waterway. In addition to publication in the **Federal Register**, the Coast Guard will announce the creation of this safety zone through local notice to mariners, marine information broadcasts and outreach to partner agencies in the area.

#### Background and Purpose

Seal Island located to the east of Matinicus Island off of the coast of Maine was used as an aerial bombing

and target range by the United States Government. The use as a bombing and target range ceased; however, recent exploration of the island and the surrounding waters led to the discovery of various munitions and explosives of concern that present safety hazards to those who may come in contact with them. Some of these MECs are located on Seal Island as well as in the shallow water immediately surrounding it. A danger zone currently exists around the island however it is only enforced during times of active aerial bombing exercises which no longer occur. The regulation for the danger zone can be found in 33 CFR 334.10.

This regulation will establish a fixed safety zone around the perimeter of the affected portions of Seal Island out to the 60 foot depth curve so as to ensure mariners do not come into close proximity with MECs near Seal Island. This safety zone is necessary to protect vessels and persons from the hazards associated with MEC.

#### Discussion of Rule

This rule creates the following safety zone for: “Seal Island Munitions and Explosives of Concern (MEC).” The safety zone is for all navigable waters of the Gulf of Maine in the vicinity of Seal Island, in approximate location latitude 43°53’00” N, longitude 068°44’00” W, extending from the shoreline out to the 60 foot depth curve. The 60 foot curve can be found on various nautical charts and is readily apparent on NOAA Chart 13303, Approaches to Penobscot Bay.

Entry into these zones by any person or vessel will be prohibited unless specifically authorized by the Captain of the Port Northern New England, or his designated representatives. Persons desiring to enter the safety zone may request permission to enter from the Coast Guard Captain of the Port via VHF Channel 16 or by contacting the Sector Northern New England Command Center at (207) 741-5465.

The Coast Guard advises that entry into, transiting, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining within or anchoring in this safety zone is prohibited unless authorized by the Captain of the Port Northern New England or his designated representatives.

The “designated representative” is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Northern New England to act on his behalf.

#### Regulatory Analyses

We developed this interim 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.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: the safety zone will cover only a small portion of the navigable waters around Seal Island allowing vessels to operate in all other portions of the approaches to Penobscot Bay. In addition, vessels may be authorized to enter the zone with permission of the Captain of the Port Northern New England.

#### 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. 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. 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 the Gulf of Maine around Seal Island.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the safety zone and operate in all other portions of the approaches to Penobscot Bay in the Gulf of Maine. Before the effective period, we

will issue maritime advisories widely available to users of the waterway transiting in the vicinity of Seal Island.

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 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 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 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 M16475.1D, 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 which 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 safety zones. An environmental analysis checklist and a categorical exclusion determination will be available for review 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, and 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. 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.180 to read as follows:

#### **§ 165.180 Safety Zone; Seal Island, Maine**

(a) *Location.* The following area is a safety zone: All navigable waters of the Gulf of Maine in the vicinity of Seal Island, Maine in approximate location latitude 43°53'00" N, longitude 068°44'00" W, extending from the shoreline of Seal Island out to the 60 foot depth curve as indicated on

nautical charts. Note that the 60 foot depth curve is readily identifiable on NOAA chart 13303 (Approaches to Penobscot Bay).

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) Entry into, transiting, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining within or anchoring in this safety zone is prohibited unless authorized by the Captain of the Port Northern New England or his designated representatives.

(3) The "designated representative" is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Northern New England to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone may contact the Captain of the Port Northern New England or his designated representative at the Coast Guard Sector Northern New England Command Center via VHF Channel 16 or by phone at (207) 741-5465 to request permission.

(5) Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port Northern New England or his designated representatives.

Dated: July 15, 2009.

**J.B. McPherson,**

*Captain, U. S. Coast Guard, Captain of the Port, Sector Northern New England.*

[FR Doc. E9-21570 Filed 9-4-09; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0383]

RIN 1625-AA00

#### Safety Zone; Paddle for Clean Water; San Diego; CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone upon the navigable waters of the Pacific Ocean, San Diego, CA, in support of a paddling regatta near the Ocean Beach Pier. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from

entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective on September 13, 2009.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0383 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0383 in the "Keyword" box, and then clicking "Search." This material is 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 Petty Officer Shane Jackson, Waterways Management, Coast Guard; telephone 619-278-7262, e-mail [Shane.E.Jackson@uscg.mil](mailto:Shane.E.Jackson@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

On June 29, 2009 we published a notice of proposed rulemaking (NPRM) entitled Safety zone; Paddle for Clean Water; San Diego; California in the *Federal Register* (74 FR 30991). We received 0 comments on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

The Surfrider Foundation San Diego Chapter is sponsoring the Paddle for Clean Water. The event will consist of 900 to 1000 participants paddling around the Ocean Beach Pier. The sponsor will provide rescue vessels, as well as perimeter safety boats for the duration of this event. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway.

##### Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced on September 13, 2009 from 9 a.m. to 4 p.m. The limits of the safety zone will be as follows:

32°45.00' N, 117°15.12' W;  
32°45.10' N, 117°15.30' W;  
32°44.55' N, 117°15.38' W;

32°44.43' N, 117°15.19' W; along the shoreline to  
32°45.00' N, 117°15.12' W.

This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

##### 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. We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times unless authorized to do so by the Captain of the Port or his designated representative.

##### 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 determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times.