

SUPPLEMENTARY INFORMATION: This notice implements the permanent special local regulation governing the 2000 Harvard-Yale Regatta. A portion of the Thames River in New London, Connecticut will be closed during the effective period to all vessel traffic except participants, official regatta vessels, and patrol craft. The regulated area is that area of the river between the Penn Central drawbridge and Bartlett's Cove. Additional public notification will be made via the First Coast Guard District Local Notice to Mariners and marine safety broadcasts. The full text of this regulation is found in 33 CFR 100.101.

Dated: March 28, 2000.

G.N. Naccara,

*Rear Admiral, U.S. Coast Guard Commander,
First Coast Guard District.*

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-00-120]

RIN 2115-AA97

Safety Zone: Sunken Vessel JESSICA ANN, Cape Elizabeth, ME

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone encompassing those waters of the Atlantic Ocean within 1,000 yards of the position 43°31'9" N, 070°11'8" W and from the water's surface to the seabed floor. This rule is necessary to protect the environment from a diesel fuel spill which may occur from the disturbance of the sunken vessel F/V Jessica Ann, the commercial fishery, and the general public for the hazards associated with the recovery of diesel fuel from a sunken vessel.

EFFECTIVE DATE: This section is effective on April 4, 2000 until July 1, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant R. V. Timme, Chief of Response and Planning, Captain of the Port, Portland at (207) 780-3251.

SUPPLEMENTARY INFORMATION:

Regulatory History

As authorized by 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Under 5 U.S.C 553(b)(B), the Coast Guard finds that good cause exists for

not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Due to inclement weather conditions, recovery of the diesel fuel on board the F/V Jessica Ann must be postponed. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to protect the environment from an oil spill which may occur from inadvertent or intentional disturbance of the wreckage prior to the time that the oil spill recovery operations are possible, and to protect the maritime public from the hazards associated with recovery operations.

On February 20, 2000, The F/V Jessica Ann sunk in 136 feet of water in the Atlantic Ocean. It is estimated that approximately 10,000 gallons of diesel fuel is on board the vessel. Clean Harbors, Inc. was hired for the clean up and recovery of fuel on board the F/V Jessica Ann. The fuel vents on the vessel were sealed to secure the leak. However, due to inclement weather, fuel recovery has been postponed until favorable weather conditions prevail. The safety zone will be effective on April 4, 2000 until July 1, 2000, Cape Elizabeth, Maine. This regulation establishes a safety zone encompassing those waters of the Atlantic Ocean within 1,000 yards of the position 43°31'9" N, 070°11'8" and from the water's surface to the seabed floor. The safety zone will be cancelled following the recovery of the oil remaining on board. This rule is necessary to protect the environment, the commercial fishery, and the general public. Innocent transit through the area within the safety zone is not affected by this regulation and does not require the authorization of the Captain of the Port.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the proposal has no significant effect on shipping, and its impact on fishing is minimal as it removes a small portion (less than one square mile) of the

available fishing grounds from active fishing.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The commercial fishing community intending to fish portions of Cape Elizabeth restricted by the safety zone.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 113132 and have determined that this rule does not have sufficient federalism implications for Federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government's having first provided the funds to pay those costs. This rule will not impose an Unfunded Mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in section 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and an Environmental Analysis Checklist is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. Add temporary section, § 165.T01-120, to read as follows:

§ 165.T01-120; Sunken Vessel JESSICA ANN, Cape Elizabeth, ME.

(a) *Location:* The following is a safety zone: encompassing those waters of the Atlantic Ocean within 1,000 yards of the position 43°31'9" N, 070°11'8" of the F/V Jessica Ann and from the water's surface to the seabed floor, Cape Elizabeth, ME.

(b) *Effective date:* April 4, 2000 until July 1, 2000.

(c) *Regulations:* (1) The general regulations contained in § 165.23 and

the regulations specifically relating to safety zones in § 165.20 of this part apply.

(2) All vessels and persons are prohibited from anchoring, diving, dredging, dumping, fishing, trawling, laying cable, or conducting salvage operations in this zone except as authorized by the Coast Guard Captain of Port, Portland, Maine. Innocent transit through the area within the safety zone is not affected by this regulation and does not require the authorization of the Captain of the Port.

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

Dated: April 4, 2000.

J. E. Cameron,

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

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