

the Act, to any representative of the Commission, the Securities and Exchange Commission, or any applicable prudential regulator.

Issued in Washington, DC on January 13, 2011 by the Commission.

**David A. Stawick,**  
*Secretary of the Commission.*

### **Appendices to Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants—Commissioners Voting Summary and Statements of Commissioners**

**Note:** The following appendices will not appear in the Code of Federal Regulations.

#### **Appendix 1—Commissioners Voting Summary**

On this matter, Chairman Gensler and Commissioners Dunn, Sommers, Chilton and O'Malia voted in the affirmative; no Commissioner voted in the negative.

#### **Appendix 2—Statement of Chairman Gary Gensler**

I support the proposed rulemaking that establishes swap trading relationship documentation requirements for swap dealers and major swap participants. The proposed regulations are consistent with the express mandate of the Dodd-Frank Act to prescribe standards for the timely and accurate confirmation, processing, netting, documentation and valuation of swap transactions. One of the primary goals of the Dodd-Frank Act was to establish a comprehensive regulatory framework that would reduce risk, increase transparency and promote market integrity within the financial system. The proposed regulations accomplish this objective by establishing procedures that will promote legal certainty regarding terms of swap transactions, early resolutions of valuation disputes, enhanced understanding of one counterparty's risk exposure to another, reduced operational risk and increased operational efficiency. One of the key chapters from the 2008 financial crisis was when large financial players, including AIG, had valuation disputes and other problems regarding documentation standards. These rules will directly address many of these issues, highlighting issues for senior management and regulators earlier and lowering risk to the public.

#### **Appendix 3—Commissioner Scott D. O'Malia**

I respectfully dissent from the Commission's decision to propose requirements regarding the inclusion of Title II of the Dodd-Frank Act (Title II) and the Federal Deposit Insurance Act (FDIA) in the swap documentation used by swap dealers (Dealers) and major swap participants (MSP). This proposal would require Dealers and MSP to include a provision in their swap documentation which will prevent their counterparties from exercising certain private, contractual rights in the event that a

swap becomes subject to the processes of either Title II or FDIA. In particular, the proposal requires counterparties to explicitly consent to the resolution processes set forth in Title II or FDIA, which includes a one-day stay on the termination, liquidation or netting of swaps with a "covered financial company" as that term is defined under Title II. Title II also provides the Federal Deposit Insurance Company (FDIC) with an unchecked authority to repudiate contracts and preference which creditors receive payments. Finally, the proposal asks whether swap agreements which contain cross default provisions should also subject counterparty affiliates to a "covered financial company" designation or treat them as an insured depository institution under FDIA.

The Commission's proposal relies on its authorities in Title VII of the Dodd-Frank Act regarding swap documentation. Asking parties to agree upon and include valuation language in their swap agreements under this authority is one thing, but dictating that one party forego its legal contractual rights simply because its counterparty becomes subject to an overly vague and far reaching statute intended to address "systemic risk to the financial system" is quite another. If the FDIC authority to require this provision under Title II was clear, then there would be no need for the Commission to prop up the banking regulator's ability to exercise its resolution authority. In its best attempt to justify the proposal, the Commission claims that it is merely trying to put counterparties on notice of the already existing requirements of Title II and FDIA, but neither the proposal regarding an explicit consent to transfer, nor the discussion regarding affiliates and cross default agreements is a reflection of language already included in Title II or FDIA. At the very least, if the CFTC had any specific role under Title II or FDIA, then it would be clear how we would inform the treatment of the market participants that we regulate and their transactions in the case of a default. We do not.

By raising these objections, I hope that market participants will become fully aware of the legal regime that they will be subject to by virtue of entering into a swap agreement. I don't believe it is in our best interest to adopt seemingly redundant and unnecessary requirements into our regulations or to adopt requirements under the guise of our Title VII authorities that clearly exceeds the already broad statutory authority Congress decided to provide the FDIC under both Title II and FDIA. As a result, I cannot support this proposal.

[FR Doc. 2011-2643 Filed 2-7-11; 8:45 am]

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## **DELAWARE RIVER BASIN COMMISSION**

### **18 CFR Part 410**

#### **Proposed Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan To Provide for Regulation of Natural Gas Development Projects**

**AGENCY:** Delaware River Basin Commission.

**ACTION:** Proposed rule; supplemental notice of public hearing.

**SUMMARY:** The Delaware River Basin Commission published in the **Federal Register** of January 4, 2011 a proposed rule containing tentative dates and locations for public hearings on proposed amendments to its Water Quality Regulations, Water Code and Comprehensive Plan relating to natural gas development projects. The public hearing dates have been changed and locations and times established, as set forth below.

**DATES:** Public hearings will be held at two locations on February 22, 2011 and at a third on February 24, 2011. Hearings will run from 1:30 p.m. until 5 p.m. and from 6 p.m. until 9:30 p.m. at each location. Written comments will be accepted through the close of business on March 16, 2011.

**Locations:** The hearings on February 22, 2011 will take place in the Honesdale High School auditorium, 459 Terrace Street, Honesdale, Pennsylvania and the Liberty High School auditorium, 125 Buckley Street, Liberty, New York. The hearings on February 24, 2011 will take place in Patriots Theater at the War Memorial, 1 Memorial Drive, Trenton, New Jersey.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula Schmitt at 609-883-9500, ext. 224.

**SUPPLEMENTARY INFORMATION:** This document supplements the Commission's proposed rule published in the **Federal Register** of January 4, 2011 (76 FR 295) by providing the dates, times and locations of the public hearings to be held on proposed amendments to the Commission's Water Quality Regulations, Water Code and Comprehensive Plan relating to the conservation and development of water resources of the Delaware River Basin during the implementation of natural gas development projects. The tentative hearing dates published in the notice of January 4, 2011 have been changed. The exact locations and times of the public hearings were not included in the January 4 notice and are provided here.

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.*

[FR Doc. 2011-2677 Filed 2-7-11; 8:45 am]

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## 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