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Dated: June 13, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 110 and 165

[Docket No. USCG–2010–1119]

RIN 1625–AA01; 1625–AA11

Superfund Site, New Bedford Harbor, New Bedford, MA: Anchorage Ground and Regulated Navigation Area

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending an existing anchorage ground which currently overlaps a pilot underwater cap (''pilot cap'') in the U.S. Environmental Protection Agency's (EPA) New Bedford Harbor Superfund Site in New Bedford, MA. The Coast Guard is also establishing a regulated navigation area (RNA) prohibiting activities that disturb the seabed around the site. The RNA would not affect transit or navigation of the area.

DATES: This rule is effective July 20, 2011.

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–2010–1119 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–1119 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 rule, call or e-mail Lieutenant Junior Grade Isaac Slavitt, Waterways Management Branch, First Coast Guard District; telephone 617–223–8385, e-mail *Isaac.M.Slavitt@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:

Regulatory Information

On April 12, 2011, we published a notice of proposed rulemaking (NPRM) entitled ''Superfund Site, New Bedford Harbor, New Bedford, MA: Anchorage Ground and Regulated Navigation Area'' in the **Federal Register** (76 FR 20287). We received no comments on the proposed rule. A public meeting was not requested and none was held. The Commonwealth of Massachusetts completed a review of this regulatory action and concurred that the activity's effects on resources and uses in Massachusetts coastal zone are consistent with the Coast Zone Management enforceable program policies. The Commonwealth had no objection to the Coast Guard implementing the action in less than 90 days from the date of initial notification as provided in 15 CFR 930.36(b)(2).

Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C. 471, 1221–1236, 2030, 2035, and 2071; 46 U.S.C. chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory anchorage grounds and RNAs.

The purpose of the rule is to minimize the potential for human exposure to contamination and to help protect the integrity of the EPA's remedy at a portion of the New Bedford Harbor Superfund Site by reducing an existing anchorage ground so that it no longer overlaps the pilot cap, and by placing the pilot cap in a RNA that would protect the site from damage by mariners, and protect mariners and the general public from contaminants in the site.

Background

The New Bedford Superfund cleanup site is an urban tidal estuary with sediments contaminated by polychlorinated biphenyls (PCBs) and heavy metals. An extensive history and background of the cleanup project can be found on the EPA's Web site, at *http://www.epa.gov/nbh/.*

The specific cleanup project and surrounding area addressed by this regulation is the Pilot Underwater Cap (''pilot cap''), which is located south of the New Bedford Harbor hurricane barrier in the outer harbor. The pilot cap consists of sand and gravel covering approximately 20 acres of contaminated sediments. Based on data collected in 2010, the thickness of the cap is predominantly one to two feet (98% of the cap area has a thickness greater than one foot; 68% greater than two feet; and in a few isolated areas, the thickness is up to 6.4 feet). A copy of the latest data for the pilot cap area can be found on EPA's Web site for New Bedford Harbor: *http://www.epa.gov/nbh.* While the pilot cap is protective of human health and the environment, it remains vulnerable to human actions that tend to disturb the seabed.

Several maritime practices that involve physical contact with the seabed (*e.g.,* anchoring, dragging, trawling, and spudding) pose a specific threat to the pilot cap. It is also conceivable that PCBs or heavy metals could stick to gear penetrating the seabed; any contaminants that come up with gear could create a threat to human health and the environment. The RNA would prohibit these specific activities without in any way inhibiting surface navigation.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rulemaking. No changes were made in the Final Rule.

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.

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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.

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 rule would affect the following

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entities, some of which might be small entities: The owners or operators of recreational and small fishing vessels intending to anchor in New Bedford's outer harbor.

The rule would not have a significant economic impact on a substantial number of small entities for the following reasons: Normal surface navigation will not be affected; approximately half of the existing anchorage area will still be available for use, and there is another, much larger anchorage nearby; the number of vessels using the anchorage is limited due to draft (less than or equal to 18 feet); and anchoring over the pilot cap could pose a risk to human health and the environment, making it an already unattractive option.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could 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 (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.

Taking of Private Property

This rule will 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 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.lD, 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 that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraphs (34)(f) and (34)(g) of the Instruction because it involves shrinking an existing anchorage ground, and establishing an RNA prohibiting activities that disturb the seabed.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 110

Anchorage grounds.

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 parts 110 and 165 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.140, by revising paragraph (a)(2) to read as follows:

§ 110.140 Buzzards Bay, Nantucket Sound, and adjacent waters, Mass.

(a) * * *

(2) *Anchorage B.* All waters bounded by a line beginning at 41°36′42.3″ N, 070°54′24.9″ W; thence to 41°36′55.5″ N, 070°54′06.6″ W; thence to 41°36′13.6″ N, 070°53′40.2″ W; thence to 41°36′11.1″ N, 070°54′07.6″ W; thence along the shoreline to the beginning point.

* * * * *

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. 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; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 4. Add § 165.125 to read as follows:

§ 165.125 Regulated Navigation Area; EPA Superfund Site, New Bedford Harbor, Massachusetts.

(a) *Location.* The regulated navigation area encompasses all waters bounded by a line beginning at 41°37′22.5″ N, 070°54′34.1″ W; thence to 41°37′14.4″ N, 070°54′19.6″ W; thence to 41°36′58.5″ N, 070°54′08.1″ W; thence to 41°36′45.0″ N, 070°54′26.9″ W; thence along the shoreline and south side of the hurricane barrier to the beginning point.

(b) *Regulations.* (1) All vessels and persons are prohibited from activities that would disturb the seabed within the regulated navigation area, including but not limited to anchoring, dragging, trawling, and spudding. Vessels may otherwise transit or navigate within this area without reservation.

(2) The prohibition described in paragraph (b)(1) of this section shall not apply to vessels or persons engaged in activities associated with remediation efforts in the New Bedford Harbor Superfund Site, provided that the Coast Guard Captain of the Port (COTP) Southeastern New England, is given advance notice of those activities by the U.S. Environmental Protection Agency (EPA).

(c) *Waivers.* The Captain of the Port (COTP) Southeastern New England may, in consultation with the U.S. EPA, authorize a waiver from this section if he or she determines that the proposed activity can be performed without undue risk to environmental remediation efforts. Requests for waivers should be submitted in writing to Commander, U.S. Coast Guard Sector Southeastern New England, 1 Little Harbor Road, Woods Hole, MA, 02543, with a copy to the U.S. Environmental Protection Agency, Region 1, New Bedford Harbor Remedial Project Manager, 5 Post Office Square, Suite 100 (OSRR07), Boston, MA 02109, to facilitate review by the EPA and U.S. Coast Guard.

Dated: June 6, 2011.

D.A. Neptun,

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

[FR Doc. 2011–15164 Filed 6–17–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0084; FRL–9320–6]

RIN 2060–AM37

Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On June 12, 2008, EPA issued national emission standards for control of hazardous air pollutants (HAP) for the plating and polishing area source category under section 112 of the Clean Air Act (CAA). In today's action, EPA is taking direct final action to amend the national emission standards for HAP (NESHAP) for the plating and polishing area source category. These final amendments clarify that the emission control requirements of the plating and polishing area source NESHAP do not apply to any bench-scale activities. Also, several technical corrections and clarifications that do not make significant changes in the rule's requirements have been made to the rule text. We are making these amendments by direct final rule, without prior proposal, because we view these revisions as noncontroversial and anticipate no adverse comments. Consistent with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, this amended rule will increase flexibility and freedom of choice for the public, and make the rule more clear and intelligible which, as a result, will reduce the burden.

DATES: This final rule is effective on September 19, 2011 without further notice, unless EPA receives significant adverse comment by July 20, 2011. If the effective date is delayed, timely notice will be published in the **Federal Register**. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0084, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2005–0084.
- *Fax:* Fax your comments to: (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2005–0084.
- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, *Mailcode:* 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2005–0084. Please include a total of two copies.
- *Hand Delivery:* In person or by courier, deliver comments to: EPA Docket Center, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are accepted only during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0084. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you