

(12) When sustained winds are greater than 20 knots, as measured at the Bayonne Bridge meteorological sensor, vessels are prohibited from backing out of the Howland Hook Marine Terminal.

(13) Sustained winds from 20 to 34 knots. In sustained winds from 20 to 34 knots: (i) Cargo ships and tankers in ballast may not transit the RNA; (ii) tugs pushing or towing alongside tank barges 350 feet in length, or greater, in light condition, require an assist tug in the RNA.

(14) Sustained winds greater than 34 knots. In sustained winds greater than 34 knots, vessels 300 gross tons or greater and all tugs with tows are prohibited from transiting the RNA.

(15) When visibility is less than one nautical mile the entire work zone is closed to vessels over 350 feet in length and all tugs with tows.

(16) The Vessel Traffic Service New York Director may impose additional requirements through VTS measures, as per 33 CFR 161.11, when the dredge is working in the most restricted areas of the waterway.

This proposed rulemaking is needed to reduce the risks of collisions, groundings, and other navigational mishaps associated with this project. These proposed restrictions are similar to those currently in place to the east of the proposed RNA for the ongoing Kill Van Kull RNA codified at 33 CFR 165.165. They were originally instituted during 1991–1992 when dredging was last conducted in this vicinity. They were instituted at that time in response to three groundings that resulted in one oil spill and one channel blockage.

Public notifications for specific dredging dates and dredging areas within the RNA will be made prior to the commencement of dredging via the Local Notice to Mariners, marine information and facsimile broadcasts, at New York Harbor Operations Committee meetings and on the internet at: <http://www.harborops.com>.

The proposed regulation would become effective on Monday, September 1, 2003.

Discussion of Proposed Rule

The proposed RNA encompasses all waters of the North of Shooters Island Reach, Elizabethport Reach, and Gulfport Reach in the Arthur Kill. This proposed rule is necessary to safeguard marine traffic from the dangers of the dredging and blasting work proposed in the project area.

Regulatory Evaluation

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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This finding is based on the following reasons: Vessels will be allowed to transit work areas where dredges and/or drill barges are located unless blasting is to be conducted; delays resulting from blasting are expected to last no longer than 15 minutes and occur less than 7 times daily in any one area; there are no restrictions on vessel traffic in the RNA in areas where there are no dredges or drill barges; the Port Authority of New York/New Jersey is working with the Army Corps of Engineers on this project to ensure future generations of deep draft vessels are able to use the Port of NY/NJ; it will reduce substantial costs associated with lightering operations currently required by vessels unable to transit the harbor fully loaded, and advance notifications will be made to the local maritime community by the Local Notice to Mariners, marine information and facsimile broadcast, at New York Harbor Operations Committee meetings and on the internet at <http://www.harborops.com>.

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 proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit a portion of the North of Shooters Island Reach, Elizabethport Reach, or Gulfport Reach of the Arthur Kill during the time this RNA is effective.

This RNA would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels will be allowed to transit work areas where dredges and/or drill barges are located unless blasting is to be conducted; delays resulting from blasting are expected to last no longer than 15 minutes and occur less than 7 times daily in any one area; there are no restrictions on vessel traffic in the RNA in areas where there are no dredges or drill barges; the Port Authority of New York/New Jersey is working with the Army Corps of Engineers on this project to ensure future generations of deep draft vessels are able to use the Port of NY/NJ; and it will reduce substantial costs associated with lightering operations currently required by vessels unable to transit the harbor fully loaded. Before the effective date we will ensure wide dissemination of maritime advisories widely available to users of the Arthur Kill by the Local Notice to Mariners, marine information and facsimile broadcast, at New York Harbor Operations Committee meetings, and on the internet at <http://www.harborops.com>.

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 contact Lieutenant Commander E. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4012.

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