



ASSOCIATION ON AMERICAN INDIAN AFFAIRS
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SINCE 1922

November 22, 2017

By U.S. Mail and Email

Chairman John H. Hoeven, III
Hart Senate Office Building, SH-838
Washington, DC 20510-6450

Vice Chairman Tom Udall
Hart Senate Office Building, SH-838
Washington, DC 20510-6450

Michael Andrews
Mike_Andrews@indian.senate.gov

Jennifer Romero
Jennifer_Romero@indian.senate.gov

Re: Submission of Comments for November 8, 2017 STOP Act Hearing, S. 1400

Dear Chairman Hoeven and Vice Chairman Udall:

The Association on American Indian Affairs (AAIA) is honored and grateful for the opportunity to provide support to this bi-partisan legislation that is necessary to the continued revitalization of Native cultures and supports Tribal self-sufficiency and self-determination. The Safeguard Tribal Objects of Patrimony Act of 2017 (STOP Act) declares that the exportation of cultural items and archaeological resources that are already protected from trafficking within the US is illegal. This assertion of law and policy through the STOP Act is desperately needed.

AAIA absolutely supports the STOP Act. The AAIA is the oldest non-profit organization working in Indian Country, founded in 1922 by Indian policy reformists such as John Collier who sought to end assimilationist and allotment policies of the late 19th and early 20th Centuries. For at least the last 50 years, AAIA has worked to support Tribal efforts for the protection of indigenous religions, languages, sacred sites, and the return of ancestors, their burial items, and other looted cultural items. AAIA assisted in the development and drafting of the National Museum of the American Indian Act (NMAI Act) and the Native American Graves Protection and Repatriation Act (NAGPRA). "Protection of Cultural Items" is a significant AAIA program. As part of this program, AAIA has worked with Tribal governments and spiritual leaders, as well as attorneys and advocates, to develop appropriate legislation to STOP the export of our indigenous culture overseas.

The journey home of ancestors, funerary objects, objects of cultural patrimony, sacred objects, and other archaeological items back to their origin and into the possession and control of American

Indian Nations is a significant constitutional due process and Indian Commerce Clause issue, as well as a human rights concern. The US Congress has already determined that federal law must support the special government-to-government relationship with Tribes through protection and repatriation of cultural items through NAGPRA. The US Congress has already documented the terrible history of how Native Americans were dispossessed of their ancestors and cultural items when NAGPRA was drafted and enacted. Yet, the commercial perspective regarding the sale of “tribal antiquities” lags far behind US law and policy and is, unsurprisingly, threatened by the current legislation that you have proposed – and for which there has only been positive support from Tribes, Indian organizations and Native peoples.

All opposition to this bill comes from commercial dealers that are worried the exportation ban will eat into their sales of tribal antiquities. The Antique Tribal Art Dealers Association (ATADA) and non-profits supporting the agenda of commercial dealers including the Committee for Cultural Policy (CPP) and the Global Heritage Alliance (GHA), argue how the STOP Act is too broad, redundant and therefore unnecessary, and will harm the sale of legitimate American Indian art. Such comments from this opposition are misplaced and incorrect.

The STOP Act Applies to What Is Currently Protected Under Law

The STOP Act’s exportation restriction applies only to what Congress has deemed is illegal to traffic: NAGPRA “cultural items,” Archaeological Resources Protection Act (ARPA) “archaeologic resources,” and the Antiquities Act “objects of antiquity”. Commercial dealers who are in possession of these items cannot traffic them domestically already.

So why are commercial dealers concerned about their exportation? Commercial dealers are in fact in possession of human remains, funerary objects, objects of cultural patrimony, sacred items, archaeological resources and objects of antiquity that were looted prior to the enactment of these laws. But for the time period and tribal and federal restrictions of current cultural heritage law, commercial dealers would be in possession of illegally held cultural resource items that should be protected by Tribal or federal governments.

This does not mean that the STOP Act is too broad; instead, it puts the onus where it should be – on the commercial dealer – to prove that he or she holds the item properly under current law. Any legitimate dealer should have retained the history and context of an item – without it, the item should not be marketable and should be presumed to be obtained improperly. Commercial dealers are very sophisticated and are experts on the items they hold so they can place a value on the item. Often, unfortunately, more profit can be gained by the sale of items held improperly.

While the STOP Act should place the burden on the holder of an item to prove ownership at the border, the STOP Act does not present a greater burden on the federal government or customs’ agents because of federal agency expertise in protecting against the importation of cultural patrimony from other countries under the Convention on Cultural Property Implementation Act (CPIA) and is trained well through State Department programs.

In addition, the argument that Tribes will not give sacred information about items is a red herring because such information is not necessary to provide notice. One need only peruse a federal

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register notice for the Department of Homeland Security, US Customs and Border Protection and Department of the Treasury for import restrictions imposed on certain cultural patrimony to clearly understand that identifying Native American cultural resources will not be a burden on the federal government, or for providing notice.

For example, 2013 FR 14183-14185 provides the listing of archaeological resources protected against importation into the US from Belize and, as listed, includes broadly:

- II. Stone—Objects in any type of stone, including jade, greenstone, obsidian, flint, alabaster/calcite, limestone, slate, or other.
 - A. Tools—forms such as points, blades, scrapers, hoes, grinding stones, eccentrics and, others.
 - B. Jewelry—forms such as necklaces, earplugs, pendants, beads, and others.
 - C. Monumental Stone Art—forms such as stelae, round altars, architectural elements, and others.
 - D. Vessels—forms such as bowls and vases.
 - E. Figurines—forms such as human, animal, and mythological creatures.
 - F. Masks—burial masks of variable stone composition.

Federal Register Notice for Belize attached hereto. There is no need to describe particular detail, or other information that is deemed sacred by Tribes. Again, the onus is on the person attempting to export the item to prove proper ownership; the burden is not on Tribes to give away sacred and protected information in order to give notice.

The Legitimate Sale and Ownership of American Indian Art

There have been no American Indian artists or American Indian artist associations that have rallied against the STOP Act. In fact, AAIA's work with American Indian artists has only found support for the STOP Act because it will actually increase the market in legitimate art. Only the commercial dealers – ATADA, CPP and GHA – argue that the STOP Act will diminish the sale of American Indian art. American Indian artists however, understand that American Indian art is easily distinguishable from cultural items, archaeological resources and objects of antiquity: simply, American Indian art is signed by the artist – prohibited cultural items are not signed with an individual artist's name. Neither have museums and federal agencies had this concern when repatriating NAGPRA cultural items. This is important for commercial dealers however, because they conflate "art" with "antiquities" and use these terms interchangeably in order to legitimize the sale of "antiquities" as "art."

Commercial dealers are in possession of human remains, funerary objects, objects of cultural patrimony, sacred objects and archaeological resources that they proclaim a commercial interest in. If those "antiquities," which are distinguishable from "art," are held legitimately and in accordance with current law, then commercial dealers should absolutely be able to prove it. If they are not, then the item should not be marketable.

Improvements to the STOP Act

AAIA absolutely supports the passage of the STOP Act as soon as it can be accomplished.

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However, it is worth noting that the STOP Act provides Congress an opportunity to fix other issues with current legislation. First, the Enhanced Penalty section could provide stronger deterrence against trafficking and improper export if the intent requirement was amended.

AAIA supports the increased penalty from 5 to 10 years. However, a significant issue of 18 USC 1170 is the intent requirement: "Whoever knowingly sells..." requires the individual to know that the act is illegal. Often, this requirement of knowledge of illegality can be most difficult to prove, and therefore the criminal penalty does not provide a deterrence effect for the trafficking of cultural items. Revising the penalty to include a general level of intent, such as intent to sell (instead of the knowledge that the selling is illegal), and no requirement of intent (strict liability), would support Congress' efforts to end trafficking. These lower or no intent crimes could provide misdemeanor or 1-2 year penalties, depending on scope of the crime.

Second, the meaning of "Native American" under NAGPRA was weakened by the Ninth Circuit case of *Bonnichsen v. United States*, 367 F.3d 864 (9th Cir. 2004). NAGPRA's definition of "Native American" "means of, or relating to, a tribe, people, or culture that is indigenous to the United States." 25 U.S.C. 3001(9). The court found that "is indigenous" meant that the human remains must be affiliated with a present-day tribe. AAIA in concert with the NAGPRA Review Committee, NAGPRA practitioners and Indian Tribes have sought to amend this definition, which is used expressly in the STOP Act, to state that Native American "is or was" indigenous to the United States in order to effectuate the intent of NAGPRA to protect graves and repatriate human remains.

Finally, outside of the STOP Act, AAIA and its membership are very concerned that the US Department of Interior Secretary Zinke has indefinitely suspended the NAGPRA Review Committee. This action occurred in May 2017 and there has been no expectation from the Department when the NAGPRA Review Committee will be able to fulfill its statutory mandate. Congress mandated that the NAGPRA Review Committee oversee and make decisions about the repatriation of human remains and other cultural and sacred items. If the Review Committee doesn't meet, museums and federal agencies are unable to fulfill certain legal responsibilities, and tribes are further delayed from the return of their ancestors and cultural items. The Act states that NAGPRA is based on the unique government-to-government relationship the federal government has with Tribes (sect. 3010). Zinke's suspension of all FACA committees is an overbroad action; though his intention is to make sure stakeholders have a say in what happens at Interior, his action is actually preventing that with Tribes and NAGPRA. Even worse, it is my understanding that a few Tribes have been working to get meetings about the suspension of the NAGPRA Review Committee with the Secretary (or his delegate on this issue), and have been rejected several times. I hope that you will see to it that the NAGPRA Review Committee be released from Secretary Zinke's suspension.

Thank you for your attention on these important matters that support Tribal self-determination and self-sufficiency. If you have any questions, please do not hesitate to contact me at (240) 314-7155 or Shannon.AAIA@indian-affairs.org.

Yakoke my Choctaw thanks,


Shannon Keller O'Loughlin, Executive Director

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Dated: February 27, 2013.

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2013-04931 Filed 3-4-13; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 13-05]

RIN 1515-AD94

Import Restrictions Imposed on Certain Archaeological Material From Belize

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on certain archaeological material from Belize. These restrictions are being imposed pursuant to an agreement between the United States and Belize that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The final rule amends CBP regulations by adding Belize to the list of countries for which a bilateral agreement has been entered into for imposing cultural property import restrictions. The final rule also contains the designated list that describes the types of archaeological material to which the restrictions apply.

DATES: *Effective Date:* March 5, 2013.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George Frederick McCray, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0082. For operational aspects: Virginia McPherson, Chief, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6563.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The United States shares in the international concern for the need to protect endangered cultural property. The appearance in the United States of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the United States to join with other countries to control illegal trafficking of such articles in international commerce.

The United States joined international efforts and actively participated in deliberations resulting in the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*) (the Act). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and contribute to greater international understanding of our common heritage.

Since the Act entered into force, import restrictions have been imposed on the archaeological materials of a number of State Parties to the 1970 UNESCO Convention. These restrictions have been imposed as a result of requests for protection received from those nations. More information on import restrictions can be found on the Cultural Property Protection Web site (<http://exchanges.state.gov/heritage/culprop.html>).

This document announces that import restrictions are now being imposed on certain archaeological material from Belize.

Determinations

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). On September 19, 2012, the Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State, made the determinations required under the statute with respect to certain archaeological material originating in Belize that are described in the designated list set forth below in this document. These determinations include the following: (1) That the cultural patrimony of Belize is in jeopardy from the pillage of archaeological material originating in Belize from approximately 9000 B.C. up to 250 years old representing the Pre-Columbian era through the Early and Late Colonial Periods (19 U.S.C. 2602(a)(1)(A)); (2) that the Government of Belize has taken measures consistent with the Convention to protect its cultural patrimony (19 U.S.C. 2602(a)(1)(B)); (3) that import restrictions imposed by the United States would be of substantial benefit in deterring a serious situation of pillage, and remedies less drastic are not available (19 U.S.C. 2602(a)(1)(C)); and (4) that the application of import restrictions as set forth in this final rule is consistent with the general interests of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes (19 U.S.C. 2602(a)(1)(D)). The Assistant Secretary also found that the material described in the determinations meet the statutory definitions of "archaeological material of the state party" (19 U.S.C. 2601(2)).

The Agreement

On February 27, 2013, the United States and Belize entered into a bilateral agreement pursuant to the provisions of 19 U.S.C. 2602(a)(2). The agreement enables the promulgation of import restrictions on categories of archaeological material representing Belize's cultural heritage that is at least 250 years old, dating from the Pre-Ceramic (from approximately 9000 B.C.), Pre-Classic, Classic, and Post-Classic Periods of the Pre-Columbian era through the Early and Late Colonial Periods. A list of the categories of archaeological material subject to the import restrictions is set forth later in this document.

Restrictions and Amendment to the Regulations

In accordance with the Agreement, importation of material designated below is subject to the restrictions of 19 U.S.C. 2606 and § 12.104g(a) of the U.S. Customs and Border Protection (CBP) regulations (19 CFR 12.104g(a)) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and § 12.104c of the CBP regulations (19 CFR 12.104c) are met. CBP is amending § 12.104g(a) of the CBP regulations (19 CFR 12.104g(a)) to indicate that these import restrictions have been imposed.

Designated List of Archaeological Material of Belize

The bilateral agreement between the United States and Belize includes, but is not limited to, the categories of objects described in the designated list set forth below. Any dimensions listed are approximations and the import restrictions include complete examples of objects and fragments thereof. These categories of objects are subject to the import restrictions set forth above, in accordance with the above explained applicable law and the regulation amended in this document (19 CFR 12.104(g)(a)).

The archeological material covered under this agreement originated in Belize, from the following periods: Archaic, Pre-Classic, Classic, Post-Classic, and Early and Late Colonial Periods. The import restrictions apply to archeological material, described below, ranging in date from approximately 9000 B.C. to at least 250 years old, including, but not limited to, objects comprised of ceramic, stone, metal, shell, bone, glass, and wood.

I. Ceramic/Terracotta/Fired Clay—Unpainted, monochrome, bichrome, and polychrome. Decorative motifs include human, animal, and hybrid figures; curvilinear and rectilinear abstract designs; mythological and historic scenes; and other motifs. Decorative techniques include: painting, fluting, gouging, incisions, and modeling, among others. Forms vary considerably, and may include lids, tripod feet, or other supplementary decoration.

A. *Common Vessels*

- 1. *Vases and bottles*—(10–50 cm ht).
- 2. *Bowls*—(5–25 cm ht).
- 3. *Dishes and plates*—(10–50 cm diam).
- 4. *Jars*—(10–100 cm ht).
- 5. *Bottles*—(5–50 cm ht).
- B. *Special Forms*
 - 1. *Figurines*—(5–20 cm ht).
 - 2. *Whistles, rattles and flutes*—(5–20 cm ht).
 - 3. *Miniature vessels*—(5–10 cm ht).
 - 4. *Stamps and seals*.
 - 5. *Effigy vessels*—(15–50 cm ht).
 - 6. *Incense burners*—(25–50 cm ht).
 - 7. *Drums*—(10–50 cm ht).

II. Stone—Objects in any type of stone, including jade, greenstone, obsidian, flint, alabaster/calcite, limestone, slate, or other.

A. *Tools*—forms such as points, blades, scrapers, hoes, grinding stones, eccentrics and, others.

B. *Jewelry*—forms such as necklaces, earplugs, pendants, beads, and others.

C. *Monumental Stone Art*—forms such as stelae, round altars, architectural elements, and others.

D. *Vessels*—forms such as bowls and vases.

E. *Figurines*—forms such as human, animal, and mythological creatures.

F. *Masks*—burial masks of variable stone composition.

G. *Mirrors*—round or rectangular forms composed of pyrite pieces.

III. Metal—Objects in copper, gold, silver, brass, or other. Beaten or cast into shape, often decorated with engraving, inlay, puncturing, or attachments.

IV. Shell—Objects made out of modified shell, often decorated with incisions or inlays.

V. Bone—Objects made out of modified human or animal bone, including tools, such as hooks and punches; jewelry, such as necklaces and pendants; and objects for ritual use.

VI. Glass—Objects made of glass, including utilitarian forms such as bottles, beads, figurines, and others.

VII. Wood—Objects made of wood, including utilitarian forms such as canoes, vessels, tools, and others; and ritual forms, such as crosses, figurines, and others.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and

is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, Reporting and recordkeeping requirements.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, paragraph (a), the table is amended by adding Belize to the list in appropriate alphabetical order as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	Decision No.
Belize	Archaeological material representing Belize's cultural heritage that is at least 250 years old, dating from the Pre-Ceramic (from approximately 9000 B.C.), Pre-Classic, Classic, and Post-Classic Periods of the Pre-Columbian era through the Early and Late Colonial Periods.	CBP Dec. 13 -05.
*	*	*

* * * * *

Approved: March 1, 2013.

David V. Aguilar,

Deputy Commissioner, U.S. Customs and Border Protection.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2013-05151 Filed 3-4-13; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-0104]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the Lapalco Boulevard bascule span drawbridge across the Harvey Canal Route, Gulf Intracoastal Waterway (GIWW), mile 2.8 at New Orleans, Jefferson Parish, Louisiana. The deviation is necessary to change out the four drive panels for the motors that operate the bridge. This deviation allows the bridge to remain closed to navigation for seven consecutive days.

DATES: This deviation is effective from 6 a.m. on Monday, March 18, 2013, until 6 a.m. on Monday, March 25, 2013.

ADDRESSES: The docket for this deviation, [USCG-2013-0104] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Kay Wade, Bridge Branch Office, Coast Guard; telephone 504-671-2128, email Kay.B.Wade@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: Jefferson Parish has requested a temporary deviation from the operating schedule for the Bascule Span Bridge across the Harvey Canal Route, Intracoastal Waterway, mile 2.8 at New Orleans, Jefferson Parish, Louisiana. The bridge has a vertical clearance of 45 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Vessels requiring a clearance of less than 45 feet may transit beneath the bridge during maintenance operations.

In accordance with 33 CFR 117.451(a), the bridge currently opens on signal for the passage of vessels; except that, from 6:30 a.m. to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m. Monday through Friday except holidays, the draw need not be opened for the passage of vessels. This deviation allows the bridge to remain closed to navigation from 6 a.m. on Monday, March 18, 2013, until 6 a.m. on Monday, March 25, 2013. At all other times, the bridge will open on signal for the passage of vessels in accordance with 33 CFR 117.451(a).

The closure is necessary in order to change out the four drive panels for the motors that operate the bridge. This maintenance is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists mainly of tugs with tows with some commercial fishing vessels and recreational craft. Coordination between the Coast Guard and the waterway users determined that there should not be any significant effects on these vessels. The bridge will be unable to open during these repairs; however, an alternate route is available via the GIWW (Algiers Alternate Route).

In accordance with 33 CFR 117.35(e), the drawbridge 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: February 21, 2013.

David M. Frank,

Bridge Administrator.

[FR Doc. 2013-05071 Filed 3-4-13; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0091]

RIN 1625-AA00

Safety Zone; MODU KULLUK; Kiliuda Bay, Kodiak Island, AK to Captains Bay, Unalaska Island, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters, from surface to seabed, around the Outer Continental Shelf Mobile Offshore Drilling Unit (MODU) KULLUK currently located in Kiliuda Bay, Kodiak Island, Alaska with planned towed transit into Captains Bay, Unalaska Island, AK. The temporary safety zone will encompass the navigable waters within a 1000 meter radius of the MODU KULLUK while it is being towed to and located within Captains Bay to include while at anchor and through the loading of the MODU KULLUK onto the transport ship M/V XIANG RUI KOU. The purpose of the safety zone is to protect persons and vessels from the inherent dangers of towing and loading operations of the MODU KULLUK.

DATES: This rule is effective with actual notice from February 20, 2013 until March 5, 2013. This rule is effective in the *Code of Federal Regulations* from March 5, 2013 until April 30, 2013.

ADDRESSES: The docket for this rule, USCG-2013-0091, is available online at www.regulations.gov by typing in the docket number in the "SEARCH" box and clicking "SEARCH." Next, click on the Open Docket Folder on the line associated with this rule. 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 email LCDR Jason Boyle, U.S. Coast Guard, Seventeenth Coast Guard District; telephone 907-463-2821, jason.t.boyle@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: