

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 M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

### List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.337 as follows:

#### § 117.337 Trout River.

The draw of the CSX Railroad Bridge across the Trout River, mile 0.9 at Jacksonville, operates as follows:

(a) The bridge is not tended.

(b) The draw is normally in the fully open position, displaying green lights to indicate that vessels may pass.

(c) As a train approaches, provided the scanners do not detect a vessel under the draw, the lights change to flashing red and a horn continuously

sounds while the draw closes. The draw remains closed until the train passes.

(d) After the train clears the bridge, the lights continue to flash red and the horn again continuously sounds while the draw opens, until the draw is fully open and the lights return to green.

Dated: April 21, 2010.

**R.S. Branham,**

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

[FR Doc. 2010-10497 Filed 5-4-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0124]

RIN 1625-AA00

#### Safety Zone; St. Louis River, Tallas Island, Duluth, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around the Tallas Island area of the St. Louis River, Duluth, Minnesota. All vessels are prohibited from transiting the zone unless specifically authorized by the Captain of the Port or a designated representative. This temporary safety zone is necessary in order to ensure the safety of the general public from hazards associated with the dredging project.

**DATES:** *Effective Date:* this rule is effective in the CFR from May 5, 2010 until 11:59 p.m. November 30, 2010. This rule is effective with actual notice for purposes of enforcement beginning 12:01 a.m. May 1, 2010 through 11:59 p.m. November 30, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0124 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0124 in the "Keyword" box, and then clicking "Search." They are 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 temporary rule, call or e-mail LT Aaron Gross,

Chief of Port Operations, MSU Duluth, Coast Guard; telephone (218) 720-5286 Ext. 111, e-mail [aaron.l.gross@uscg.mil](mailto:aaron.l.gross@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the publishing of an NPRM would be impracticable and contrary to public interest as immediate action is necessary to provide for the safety of life and property on navigable waters. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On-scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to public interest because the hazards associated with dredging projects could lead to severe injury, fatalities, and/or destruction of public property. Therefore, immediate action is needed to ensure the public's safety.

#### Basis and Purpose

This temporary safety zone is necessary to ensure the safety of the general public from the potential threat associated with the dredging project beginning at Tallas Island, St. Louis River. The Captain of the Port Duluth has determined this activity could pose significant risk to public safety and property. Establishing a safety zone to control vessel movement around the location of the work site will help prevent damage and injury to workers on the site, any recreational vessels, the public and help minimize the associated risks.

## Discussion of Rule

The following area will be a temporary safety zone: Near Tallas Island on the St. Louis River to include all waters contained within the zone located at 46°42.30 N 092°11.56 W and then run northeast to position; 46°42.53 N 092°11.30 W and then run northwest to position; 46°43.5 N 092°11.41 W and then run southwest to position; 46°42.37 N 092°12.11 W and then running southeast back to the starting point (NAD 83). The safety zone's boundary is approximately 3500 ft. by 1500 ft. on the long end, extending behind Tallas Island, and 3000 ft by 1500 ft on the short end, extending into open waters. The safety zone will be effective from May 1, 2010 through November 30, 2010.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone will be prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

## 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.

## Regulatory Planning and Review

This 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.

Although this regulation will restrict access to the area, the effect of this rule will not be significant because: (i) The safety zone is a limited size; (ii) vessels may be granted permission to transit the area by the Captain of the Port or a designated representative.

## 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 will affect the following entities, some of which may be small entities: Owners or operators of vessels operating in the St. Louis River intending to transit through or anchor in the waters near Tallas Island during the effective period of the safety zone. This rule will not have a significant economic impact on the owners or operators of affected vessels because the rule is temporary in nature, lasting for only a few months. Also, it affects a relatively small area of water along the St. Louis River. Therefore, vessels can easily transit around the zone. In addition, the safety zone will not limit any residential or public access areas. Finally, small entities needing entry into the temporary safety zone might gain access via communications with the Captain of the Port or designated representative.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can 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 M16475.1D, 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, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone established to protect the public from the dangers associated with dredging operations and therefore, is categorically excluded.

An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects in 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 part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T09-0124 to read as follows:

#### § 165.T09-0124 Safety Zone; St. Louis River, Tallas Island, Duluth, MN

(a) *Location.* The following area is a temporary safety zone: near Tallas Island on the St. Louis River to include all waters contained within the zone located at 46°42.30 N 092°11.56 W and then run northeast to position; 46°42.53 N 092°11.30 W and then run northwest to position; 46°43.5 N 092°11.41 W and then run southwest to position; 46°42.37 N 092°12.11 W and then running southeast back to the starting point (NAD 83). The safety zone's boundary is approximately 3500 ft. by 1500 ft. on the long end, extending behind Tallas Island, and 3000 ft by 1500 ft on the short end, extending into open waters.

(b) *Effective Dates.* This rule is effective from 12:01 a.m. May 1, 2010 until 11:59 p.m. November 30, 2010.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Duluth, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Duluth or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Duluth or his on-scene representative to obtain permission to do so. Vessel operators permitted to enter or operate in the safety zone must comply with the instructions given to them by the Captain of the Port Duluth or his on-scene representative.

Dated: April 5, 2010.

**M.P. Lebsack,**

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

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R05-OAR-2009-0513; FRL-9136-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Indiana; Volatile Organic Compound Automobile Refinishing Rules for Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving into the Indiana State Implementation Plan (SIP) amendments to Indiana's automobile refinishing rule. These rule revisions extend the applicability of Indiana's approved volatile organic compound (VOC) automobile refinishing rules to all persons in Indiana who sell or manufacture automobile refinishing coatings or who refinish motor vehicles. The rules are approvable because they are consistent with the Clean Air Act (Act) and EPA regulations, and should result in additional VOC emission reductions throughout Indiana. EPA proposed these rules for approval on January 14, 2010, and received one favorable comment.

**DATES:** This final rule is effective on June 4, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Nos. EPA-R05-OAR-2009-0513. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that