

(c) The United States Trustee may issue a decision to deny a provider's application or to remove a provider from the approved list whenever the United States Trustee determines that the provider has failed to comply with the standards or requirements specified in 11 U.S.C. 111, this part, or the terms under which the United States Trustee designated it to act as an approved provider, including, but not limited to, finding any of the following:

(1) If any entity has suspended or revoked the provider's license to do business in any jurisdiction; or

(2) Any United States district court has removed the provider under 11 U.S.C. 111(e).

(d) The United States Trustee shall provide to the provider in writing a notice of any decision either to:

(1) Deny the provider's application; or

(2) Remove the provider from the approved list.

(e) The notice shall state the reason(s) for the decision and shall reference any documents or communications relied upon in reaching the denial or removal decision. To the extent authorized by law, the United States Trustee shall provide to the provider copies of any such documents that were not supplied to the United States Trustee by the provider. The notice shall be sent to the provider by overnight courier, for delivery the next business day.

(f) Except as provided in paragraph (h) of this section, the notice shall advise the provider that the denial or removal decision shall become final agency action, and unreviewable, unless the provider submits in writing a request for review by the Director no later than 21 calendar days from the date of the notice to the provider.

(g) Except as provided in paragraph (h) of this section, the decision to deny a provider's application or to remove a provider from the approved list shall take effect upon:

(1) The expiration of the provider's time to seek review from the Director, if the provider fails to timely seek review of a denial or removal decision; or

(2) The issuance by the Director of a final decision, if the provider timely seeks such review.

(h) The United States Trustee may provide that a decision to remove a provider from the approved list is effective immediately and deny the provider the right to provide an instructional course whenever the United States Trustee finds any of the factors set forth in paragraphs (c)(1) or (2) of this section.

(i) A provider's request for review shall be in writing and shall fully describe why the provider disagrees

with the denial or removal decision, and shall be accompanied by all documents and materials the provider wants the Director to consider in reviewing the denial or removal decision. The provider shall send the original and one copy of the request for review, including all accompanying documents and materials, to the Office of the Director by overnight courier, for delivery the next business day. To be timely, a request for review shall be received at the Office of the Director no later than 21 calendar days from the date of the notice to the provider.

(j) The United States Trustee shall have 21 calendar days from the date of the provider's request for review to submit to the Director a written response regarding the matters raised in the provider's request for review. The United States Trustee shall provide a copy of this response to the provider by overnight courier, for delivery the next business day.

(k) The Director may seek additional information from any party in the manner and to the extent the Director deems appropriate.

(l) In reviewing the decision to deny a provider's application or to remove a provider from the approved list, the Director shall determine:

(1) Whether the denial or removal decision is supported by the record; and

(2) Whether the denial or removal decision constitutes an appropriate exercise of discretion.

(m) Except as provided in paragraph (n) of this section, the Director shall issue a final decision no later than 60 calendar days from the receipt of the provider's request for review, unless the provider agrees to a longer period of time or the Director extends the deadline. The Director's final decision on the provider's request for review shall constitute final agency action.

(n) Whenever the United States Trustee provides under paragraph (h) of this section that a decision to remove a provider from the approved list is effective immediately, the Director shall issue a written decision no later than 15 calendar days from the receipt of the provider's request for review, unless the provider agrees to a longer period of time. The decision shall:

(1) Be limited to deciding whether the determination that the removal decision should take effect immediately was supported by the record and an appropriate exercise of discretion;

(2) Constitute final agency action only on the issue of whether the removal decision should take effect immediately; and

(3) Not constitute final agency action on the ultimate issue of whether the

provider should be removed from the approved list; after issuing the decision, the Director shall issue a final decision by the deadline set forth in paragraph (m) of this section.

(o) In reaching a decision under paragraphs (m) or (n) of this section, the Director may specify a person to act as a reviewing official. The reviewing official's duties shall be specified by the Director on a case-by-case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, and such other duties as the Director shall prescribe in a particular case.

(p) A provider that files a request for review shall bear its own costs and expenses, including counsel fees.

(q) When a decision to remove a provider from the approved list takes effect, the provider shall:

(1) Immediately cease providing an instructional course to debtors;

(2) No later than three business days after the date of removal, send all certificates to all debtors who completed an instructional course prior to the provider's removal from the approved list; and

(3) No later than three business days after the date of removal, return all fees to debtors who had paid for an instructional course, but had not completely received the instructional course.

(r) A provider must exhaust all administrative remedies before seeking redress in any court of competent jurisdiction.

Dated: February 14, 2013.

**Clifford J. White III,**

*Director, Executive Office for United States Trustees.*

[FR Doc. 2013-04364 Filed 3-13-13; 8:45 am]

**BILLING CODE 4410-40-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2013-0128]

RIN 1625-AA00

#### **Safety Zone; M/V XIANG YUN KOU and MODU NOBLE DISCOVERER; Resurrection Bay, Seward, 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 Motor Vessel (M/V) XIANG YUN KOU and the Mobile Offshore Drilling Unit (MODU) NOBLE DISCOVERER with a planned transit through Resurrection Bay. The temporary safety zone will encompass the navigable waters within a 500 yard radius of the MODU NOBLE DISCOVERER from dock to loading in Resurrection Bay, Seward, Alaska, onto the transport ship M/V XIANG YUN KOU, and during the vessels intended route through Resurrection Bay. The purpose of the safety zone is to protect the persons and vessels from the inherent dangers of towing, loading, and transport operations of the MODU NOBLE DISCOVERER.

**DATES:** This rule is effective with actual notice from March 1, 2013 until March 14, 2013. This rule is effective in the *Code of Federal Regulations* from March 14, 2013 until March 15, 2013.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2013–0128 and are available online by going to <http://www.regulations.gov>, inserting USCG–2013–0128 in the “Keyword” box, and then clicking “Search.” Click on Open Docket Folder on the line associated with this rulemaking. 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:** LT Nathan Menefee, U.S. Coast Guard, Sector Anchorage, Assistant Chief, Inspections Division; telephone 907–271–6707, email [Nathan.S.Menefee@uscg.mil](mailto:Nathan.S.Menefee@uscg.mil). If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

**A. 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 doing so would be impracticable. The Coast Guard was given insufficient prior notice by the MODU operator that towing was necessary, and as such, it is impracticable to undertake notice and comment. Immediate action is needed to protect human life, property, and the environment from possible tampering, collisions, allisions, oil spills, and releases during this transit.

For similar reasons, 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** because immediate action is needed to minimize potential danger to the public during the event.

**B. Basis and Purpose**

The Coast Guard proposes the establishment of a temporary safety zone around the M/V XIANG YUN KOU and MODU NOBLE DISCOVERER while towing, loading, and transporting in approximate position lat. 60°06’30” North and long. 149°24’00” West in Resurrection Bay, Alaska, and through Resurrection Bay, Alaska. The Coast Guard believes a safety zone is needed based on the significant number of persons, vessels, and activities involved to tow and load the MODU NOBLE DISCOVERER and has determined that it is highly likely that any tampering, collision, allision, or inability to identify, monitor or mitigate persons, vessels, and any additional hazards that might be encountered could result in a hazardous situation.

The loading of the MODU NOBLE DISCOVERER aboard the M/V XIANG YUN KOU is a complex operation involving multiple assist vessels maneuvering in close proximity to each other. The vessels involved in the loading and transportation operation must be able to safely move around the M/V XIANG YUN KOU and MODU NOBLE DISCOVERER during the operation without impediment.

**C. Discussion of Rule**

For the reasons stated above, the Coast Guard is establishing a safety zone in the navigable waters, from surface to seabed, within a 500 yard radius of the M/V XIANG YUN KOU and MODU NOBLE DISCOVERER while towing, loading, and transporting in and through Resurrection Bay, Alaska from March 1, 2013, through March 15, 2013. If transporting operations are completed, and the safety zone is

determined to be no longer necessary, enforcement of the zone will end prior to March 15, 2013.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

*1. 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 those Order.

The proposed rule is not a significant regulatory action due to the minimal impact this will have on standard vessel operations within the vicinity of transit in the waters of Resurrection Bay, Seward, Alaska. The proposed safety zone is designed to allow vessels transiting through the area to safely travel around the M/V XIANG YUN KOU and MODU NOBLE DISCOVERER during towing, loading and transporting operations without incurring additional cost or delay.

*2. Impact on 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 entities, some of which might be small entities: the owners and operators of vessels intending to transit through or anchor in the transit route in Resurrection Bay, Alaska from March 2, 2013, through March 15, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be effective for a short period of time, and enforcement will end once the vessels have departed Resurrection Bay, Alaska.

### 3. 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.

### 4. 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).

### 5. 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.

### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### 7. 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.

### 8. 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.

### 9. 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.

### 10. 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.

### 11. 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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. 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.

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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, and an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

#### 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T17–0128 to read as follows:

#### § 165.T17–0128 Safety Zone: Resurrection Bay, Seward, AK.

(a) *Location.* The following areas are safety zones: The established safety zone includes the navigable waters from surface to seabed within a 500 yard radius around the M/V XIANG YUN KOU and the MODU NOBLE DISCOVERER, in approximate position lat. 60°06'30" North and long. 149°24'00" West in Resurrection Bay, Seward, Alaska with a planned transit through Resurrection Bay, Alaska.

(b) *Effective date.* The Safety Zone is effective beginning March 1, 2013, from 8 a.m. local time through March 15, 2013, 10 p.m. local time or until the vessels transit outside the United States territorial seas.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to all vessels operating within the areas described in paragraph (a). In addition

to the general regulations, the following provisions apply to this safety zone:

(1) All persons and vessels shall comply with the instructions of the Captain of the Port (COTP) or designated on-scene representative, consisting of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed by the COTP's designated on-scene representative.

(2) Entry into the safety zone is prohibited unless authorized by the COTP or his designated on-scene representative. Any persons desiring to enter the safety zone must contact the designated on-scene representative on VHF channel 16 (156.800 MHz) and receive permission prior to entering.

(3) If permission is granted to transit within the safety zone, all persons and vessels must comply with the instructions of the designated on-scene representative.

(4) The COTP will notify the maritime and general public by marine information broadcast during the period of time that the safety zones are in force including notification that the MODU NOBLE DISCOVERER is loaded onto the M/V XIANG YUN KOU by providing notice in accordance with 33 CFR 165.7.

(d) Penalties. Persons and vessels violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: March 1, 2013.

**Paul Mehler III,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### 33 CFR Part 401

[Docket No. SLSDC-2013-0001; 2135-AA31]

#### Seaway Regulations and Rules: Periodic Update, Various Categories

**AGENCY:** Saint Lawrence Seaway Development Corporation, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish

and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; Dangerous Cargo; and, Information and Reports. These amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Several of the amendments are merely editorial or for clarification of existing requirements. The joint regulations will become effective in Canada on March 31, 2013. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

**DATES:** The rule will become effective on March 31, 2013.

**ADDRESSES:** *Docket:* For access to the docket to read background documents or comments received, go to <http://www.Regulations.gov>; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764-3200.

**SUPPLEMENTARY INFORMATION:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; Dangerous Cargo; and, Information and Reports. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these

changes are to clarify existing requirements in the regulations. Where new requirements or regulations are made, an explanation for such a change is provided below. The joint regulations will become effective in Canada on March 31, 2013. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

**Regulatory Notices: Privacy Act:** Anyone is able to search the electronic form of all 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.Regulations.gov>.

The SLSDC is amending two sections of the Condition of Vessels portion of the joint Seaway regulations. Under section 401.10, "Mooring lines", the SLSDC is providing flexibility to vessels by allowing the use of soft lines with a diameter not greater than 64 mm. For safety purposes in section 401.14, "Anchor marking buoys", the SLSDC is amending the rules to require vessels to deploy an anchor marking buoy when dropping anchor in the Seaway.

In the Seaway Navigation section, the Seaway Corporations are amending their joint rules in section 401.49, "Dropping anchor or tying to a canal", to require every anchor to be suitably rigged for immediate release, holding, and efficient retrieval. Currently, some tug and barge combinations are not equipped with a windlass or other means to retrieve an anchor and therefore must retrieve the anchor using "block and tackle" arrangements, which are not suitable for anchor retrieval. One comment was received which inquired whether there is sufficient and common knowledge that block and tackle arrangements are not suitable under this section. Since 2000, the Canadian Seaway in its Seaway Handbook has required that a stern "anchor shall be suitably rigged for immediate release, holding and efficient retrieval." There have been several instances where a vessel and/or barge had inoperative windlasses or winch systems. While it was easy for the vessel to release an anchor, there were many times that it took several hours to retrieve the anchor. Block and tackle arrangements are not suitable to use in Seaway waters