

### 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this rule under 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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule creates no additional vessel traffic and thus imposes no additional burdens on the environment. It simply provides guidelines for vessels transiting in Peril Strait so that vessels may transit safely in the vicinity of the Motor Vessel LeConte. Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" 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 record keeping 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. From May 10, 2004 through June 30, 2004, temporarily add § 165.T17–018 to read as follows:

#### § 165.T17–018 Safety Zone; Peril Strait, Cozian Reef, Motor Vessel LeConte, Southeast Alaska.

(a) *Location.* The following area is a safety zone: all waters within one-half mile of the Motor Vessel LeConte. Specifically, an area one-half mile around the location where the Motor Vessel LeConte has run aground at position 57°34' N, 135°26' W, in Peril Strait, Southeast Alaska.

#### (b) *Regulations.*

(1) All persons and vessels are required to comply with the general regulations governing safety zones found in section 165.23 of this part.

(2) All vessels are prohibited from entering the safety zone without the permission of the Captain of the Port, Southeast Alaska. Permission to enter the zone may be gained by contacting the Captain of the Port's designated On Scene Commander as specified below. In addition, all persons must comply with the instructions of Coast Guard Captain of the Port representatives or designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a vessel displaying a U.S. Coast Guard ensign by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed. Coast Guard Auxiliary and local or state agencies may be present to inform vessel operators of the requirements of this section and other applicable laws.

(3) Permission to enter the safety zone can be gained by contacting the On Scene Commander, the Captain of the Port's representative enforcing the safety zone. The On Scene Commander can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at (907) 463–2450.

(c) *Enforcement period.* This section will be enforced from May 10, 2004, until June 30, 2004. If enforcement ends before June 30, 2004, the Coast Guard will do a broadcast notice to mariners informing mariners that the zone is no longer being enforced.

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Dated: May 10, 2004.

John P. Sifling,

Commander, United States Coast Guard,  
Captain of the Port, Southeast Alaska.

[FR Doc. 04–11390 Filed 5–19–04; 8:45 am]

BILLING CODE 4910–15–P

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD09–04–016]

RIN 2115–AA00

#### Security Zone; Duluth Harbor, Duluth, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in Duluth's inner harbor for the Decommissioning ceremony of the Coast Guard Cutter Sundew. The security zone is necessary to ensure the security of dignitaries attending this ceremony on May 27, 2004. The security zone is intended to restrict vessels from a portion of Duluth Harbor in Duluth, Minnesota.

**DATES:** This rule is effective from 10 a.m. (local) until 3 p.m., May 27, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–04–016] and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Duluth, 600 South Lake Ave, Canal Park, Duluth, Minnesota 55802, between the hours of 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Greg Schultz, U.S. Coast Guard Marine Safety Office Duluth, at (218) 720–5285.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Additionally, 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**. The exact date of the event was not known with sufficient time to allow for the publication of an NPRM followed by an effective date

before the event. In addition, the Coast Guard did not have advance notice of the specific dignitaries that will be attending this event. Any delay in the effective date of the event could pose unnecessary risks to those dignitaries attending the event.

### Background and Purpose

The security zone will encompass the waters of Duluth Harbor, within a 250 yard radius from a fixed point located at 46°46'52" N, 92°05'47" W. These coordinates are based upon North American Datum (NAD 1983).

Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The designated on-scene representative will be the Coast Guard Patrol Commander. The Coast Guard Patrol Commander may be contacted via VHF Channel 16.

### Regulatory Evaluation

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

The security zone will only be in effect for a few hours on the day of the event and vessels may easily still transit inside the Duluth Harbor.

### 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: the owners or operators of vessels intending to transit or anchor in this portion of Duluth Harbor from 10 a.m. to 3 p.m. May 27, 2004. This regulation will not have a significant economic impact for the following reasons: The regulation is only in effect for one day of the event. The designated

area is being established to allow for maximum use of the waterway for commercial and recreational vessels. The Coast Guard will inform the public that the regulation is in effect via Marine Information Broadcasts.

### Assistance for Small Entities

Under Section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pubic Law 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 U.S. Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

### 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

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

### 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 or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not affect 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

The Coast Guard has 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulation 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### 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.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons set out 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. On May 27, 2004, from 10 a.m. (local) until 3 p.m. (local) add temporary § 165.T09-016 to read as follows:

**§ 165.T09-009 Security Zone; Duluth Harbor, Duluth, Minnesota.**

(a) *Location.* The following area is designated as a security zone: The waters of Duluth Harbor, within a 250 yard radius from a fixed point located at 46°46'52" N, 92°05'47" W. These coordinates are based upon North American Datum (NAD 1983).

(b) *Effective time and date.* This regulation is effective from 10 a.m. until 3 p.m. (local), on May 27, 2004.

(c) *Regulations.* Entry into, transit through, or anchoring within the security zone is prohibited unless authorized by the Captain of the Port Duluth or the Coast Guard Patrol Commander.

Dated: May 12, 2004.

**H.M. Nguyen,**

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

[FR Doc. 04-11389 Filed 5-19-04; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IN 140-4a; FRL-7658-9]

### Approval and Promulgation of Implementation Plans; Indiana

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

**ACTION:** Direct final rule.

**SUMMARY:** The United States Environmental Protection Agency, through this action, is approving rules submitted by the State of Indiana as revisions to its State Implementation Plan (SIP) for Prevention of Significant Deterioration (PSD) air quality construction permit program. All public comments received will be addressed in a subsequent final rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** This "direct final" rule is effective July 19, 2004, unless EPA receives written adverse comment by June 21, 2004. If adverse written comment is received, EPA will publish a timely withdrawal of the direct final

rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. IN-140, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).
- Fax: (312) 886-5824.
- Mail: Pamela Blakley, Acting Chief, Air Programs Branch, United States Environmental Protection Agency, Mail Code AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- Hand Delivery: Deliveries are only accepted during the Docket's normal hours of operation (8:15 a.m. to 4:45 p.m. CDT), and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. IN-140. EPA's policy is that all comments received will be included in the public docket without change, 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 [www.regulations.gov](http://www.regulations.gov), or e-mail. The federal [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Unit I of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in an index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is

restricted by statute. Publicly available docket materials are available in hard copy at the Air Permit Section, Air Programs Branch (AR-18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 (Docket ID IN-140), Monday through Friday, excluding holidays. The Docket telephone number is (312) 353-5697.

**FOR FURTHER INFORMATION CONTACT:**

Ethan Chatfield, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604; telephone number: (312) 886-5112; fax number: (312) 886-5824; e-mail address: [chatfield.ethan@epa.gov](mailto:chatfield.ethan@epa.gov).

**SUPPLEMENTARY INFORMATION:** This supplemental information section is organized as follows:

- I. General Information
  - A. Does This Action Apply to Me?
  - B. What Should I Consider as I Prepare My Comments for EPA?
    1. Submitting CBI
    2. Tips for Preparing Your Comments
- II. EPA Action and Review
  - A. What Is the Purpose of This Document?
  - B. What Is the History of IDEM's PSD Program?
  - C. Approvability Analysis
- III. Final Rulemaking Action
- IV. Statutory and Executive Order Reviews

### I. General Information

#### A. Does This Action Apply to Me?

The PSD rules apply to the construction or modification of major sources of air pollution. Indiana has already adopted these rules; therefore, air pollution sources will not be subject to any additional requirements. This rulemaking action merely approves the State rules into the SIP, making them federally enforceable under the Clean Air Act (CAA). Because Indiana has a federally-approved State program, anyone wishing to appeal a PSD permit will continue to do so under the State's environmental appeals process.

#### B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one