

Zone in Lake Union from 9:30 p.m. to 11 p.m. on July 4th, 2008. This action is necessary to ensure the safety of participants and spectators during the Lake Union, Seattle, WA (Ivar's Fireworks Show). During the enforcement period, entry into the Safety Zone is prohibited unless authorized by the Captain of the Port, Puget Sound, Seattle, WA. The Captain of the Port may establish transit lanes along the east and west shorelines of Lake Union and may allow boaters to transit north and south through the safety zone in these lanes. If established, these transit lanes will remain open until 10 p.m. and then be closed until the end of the fireworks display.

**DATES:** The regulations in 33 CFR 165.1306 will be enforced from 9:30 p.m. to 11 p.m. on July 4th, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ensign Heidi Bevis, c/o Captain of the Port Puget Sound, Coast Guard Sector Seattle, 1519 Alaskan Way South, Seattle, WA 98134 at (206) 217-6002.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone for the Lake Union, Seattle, WA Fireworks Show, 33 CFR 165.1306 on July 4th, 2008, from 9:30 p.m. to 11 p.m.

This safety zone provides for a regulated area to protect spectators. Movements are regulated for all vessels in the area as described under 33 CFR § 165.1306 or unless otherwise regulated by the COTP or his designee. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this safety zone.

Under the provisions of 33 CFR 165.1306, all portions of the waters of Lake Union bounded by the following coordinates: Latitude 47°38'32" N, Longitude 122°20'34" W; thence to Latitude 47°38'32" N, Longitude 122°19'48" W; thence to Latitude 47°38'10" N, Longitude 122°20'24" W; thence returning to the origin. This safety zone begins 1,000 feet south of Gas Works Park and encompasses all waters from east to west for 2,500 feet. Floating markers will be placed by the sponsor of the fireworks demonstration to delineate the boundaries of the safety zone.

The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1306(c) and 5 U.S.C. 552(a).

Dated: June 18, 2008.

**Stephen P. Metruck,**

*Captain, U.S. Coast Guard, Captain of the Port Puget Sound.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0560]

RIN 1625-AA08

#### Elliot Bay, Seattle, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the annual Elliot Bay Seattle, WA safety zone in Elliot Bay from 9:30 p.m. to 11 p.m. on July 4th, 2008. This action is necessary to ensure the safety of participants and spectators during the Ivar's Spectacular Fireworks show. During the enforcement period, entry into, transit through, mooring, or anchoring within this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** The regulations in 33 CFR 165.1307 will be enforced from 9:30 p.m. to 11 p.m. on July 4th, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ensign Heidi Bevis, c/o Captain of the Port Puget Sound, Coast Guard Sector Seattle, 1519 Alaskan Way South, Seattle, WA 98134 at (206) 217-6002.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone for Elliot Bay, Seattle, WA Fireworks Show, 33 CFR 165.1307 from 9:30 p.m. to 11 p.m. on July 4th, 2008.

This safety zone provides for a regulated area to protect spectators while providing unobstructed vessel traffic lanes to ensure timely arrival of emergency response craft. Movements are regulated for all vessels in the area as described under 33 CFR 165.1307 or unless otherwise regulated by the COTP or his designee. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this safety zone.

Under the provisions of 33 CFR 165.1307, all waters of Elliott Bay within a box bounded by the points: 47°37'22" N, 122°22'06"; 47°37'06" N, 122°21'45"; 47°36'54" N, 122°22'05"; 47°37'08" N, 122°22'27"; thence returning to the origin. The safety zone

resembles a square centered around the barge from which the fireworks will be launched and begins 100 yards off the shore of Myrtle Edwards Park. Floating markers will be placed by the sponsor of the fireworks display to delineate the boundaries of the safety zone.

The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1307(c) and 5 U.S.C. 552 (a).

Dated: June 18, 2008.

**Stephen P. Metruck,**

*Captain, U.S. Coast Guard, Captain of the Port Puget Sound.*

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**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0470]

RIN 1625-AA11

#### Regulated Navigation Area and Safety Zone, Chicago Sanitary and Ship Canal, Romeoville, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary regulated navigation area and safety zone on the Chicago Sanitary and Ship Canal near Romeoville, IL. This regulated navigation area and safety zone places navigational and operational restrictions on all vessels transiting through the electrical dispersal barrier IIA.

**DATES:** Amendments for §§ 165.923 and 165.T09-0470 are effective from June 30, 2008, until August 15, 2008; and the amendment for § 165.T09-4001 is effective from 7 a.m., July 14, 2008, until 5 p.m., August 9, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0470 and are available online at [www.regulations.gov](http://www.regulations.gov). The material is also available for inspection and copying at two places: 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 and the Ninth

Coast Guard District, Room 2069, 1240 East 9th Street, Cleveland, Ohio 44199, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule call CDR Tim Cummins, Deputy Prevention Division, Ninth Coast Guard District, telephone 216-902-6045. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** On June 12, 2008, we published a notice of proposed rulemaking (NPRM) entitled Regulated Navigation Area and Safety Zone, Chicago Sanitary and Ship Canal, Romeoville, IL, in the **Federal Register** (73 FR 33337). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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 this rule would be contrary to the public interest of ensuring the safety of persons and vessels, and immediate action is necessary to prevent possible loss of life or property.

### Background and Purpose

The electrodes on the demonstration electrical dispersal barrier I located between mile markers 296.1 and 296.7 of the Chicago Sanitary and Ship Canal are beginning to fail. This barrier was constructed to prevent Asian Carp from entering Lake Michigan through the Illinois River system by generating a low-voltage electric field across the canal. The Army Corps of Engineers intends to shutdown barrier I and begin the process of replacing the barrier electrodes which run across the bottom of the canal. Divers will be in the water and a barge-mounted crane will be operating during maintenance operations to barrier I. Electrical dispersal barrier IIA located on the Chicago Sanitary and Ship Canal 270 feet south of mile marker 296.1 to mile marker 296.7 will be in operation while repairs are being made to demonstration electrical dispersal barrier I. Barrier IIA will operate continuously for a two week period before taking barrier I off line for electrode replacement. Electrical dispersal barrier IIA generates a more powerful electric field than barrier I over a larger area within the Chicago Sanitary and Ship Canal.

The Coast Guard and U.S. Army Corps of Engineers conducted field tests to ensure the continued safe navigation

of commercial and recreational traffic across the barrier; however, results indicated an arcing risk and hazardous electrical discharges as vessels transited the barrier posing a serious risk to navigation through the barrier. To mitigate these risks, navigational and operational restrictions will be placed on all vessels transiting through the vicinity. Until the potential electrical hazards can be rectified, the Coast Guard will require vessels transiting the regulated navigation area to adhere to specified operational and navigational requirements.

### Discussion of Comment and Changes

No comments were received and no changes were made.

### 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This determination is based on the fact that traffic will still be able to transit through the regulated navigation area and the minimal time that vessels will be restricted from the safety zone. The safety zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small: the owners and operators of vessels intending to transit or anchor in a portion of the Chicago Sanitary Ship Canal from June 30, 2008 to August 15, 2008.

This regulated navigation area and safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic will be able to transit through the regulated navigation area. The U.S. Army Corps of Engineers will contract bow boat assistance for barge tows containing one or more Red Flag barges. Vessel traffic will only be limited for one five hour period and one four hour period each day the safety zone is in effect. In the event this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could 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 proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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 or more in any one year. Though this 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 effect 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these regulations and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this proposed rule or options for

compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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 procedure; and related management system 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 Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, 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, under the Instruction, 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 temporary rule establishes a regulated navigation area and safety zone and as such is covered by this paragraph.

A final environmental analysis checklist and a final categorical

exclusion determination are 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, and 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, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

#### § 165.923 [Suspended]

■ 2. Section 165.923 is suspended from June 30, 2008 until August 15, 2008.

■ 3. A new temporary § 165.T09–0470 is added to read as follows:

#### § 165.T09–0470 Temporary Regulated Navigation Area, Chicago Sanitary and Ship Canal, Romeoville, IL.

(a) *Regulated Navigation Area.* The following is a Regulated Navigation Area: All waters of the Chicago Sanitary and Ship Canal, Romeoville, IL, 270 feet south of the Romeo Road Bridge Mile Marker 296.1 to the south side of the Aerial Pipeline Mile Marker 296.7.

(b) *Effective period.* This section is effective from June 30, 2008 until August 15, 2008.

(c) *Definitions.* The following definitions apply to this section:

*Designated representative* means the Captain of the Port Lake Michigan.

*Red Flag barges* means barges containing hazardous materials as identified by the following commodity codes:

- (i) 01 (Empty with previous hazardous material);
- (ii) 20 (Petroleum and Petroleum Products);
- (iii) 21 (Crude Petroleum);
- (iv) 22 (Gasoline, Jet Fuel and Kerosene);
- (v) 23 (Distillate, Residual and other Fuel Oils; Lubricating Oils and Greases);
- (vi) 24 (Petroleum Pitches, Coke Asphalt, Naphtha and Solvents);
- (vii) 30 (Chemicals and Related Products);
- (viii) 31 (Fertilizer-Nitrogenous, Potassic, Phosphatic and Others); and
- (ix) 32 (Organic Industrial Chemicals (Crude Products) from Coal, Tar, Petroleum and Natural Gas, Dyes,

Organic Pigment Dying and Tanning Materials, Alcohols, Benzene; Inorganic Industrial Chemicals (Sodium Hydroxide); Radioactive and Associated Materials; Drugs)).

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.13 apply.

(2) All up-bound and down-bound barge tows that contain one or more red flag barges transiting through the regulated navigation area must be assisted by a bow boat until the entire tow is clear of the expanded regulated navigation area boundaries.

(i) Information on how to contact the contractor for bow boat assistance will be provided to the public in a Broadcast Notice to Mariners.

(ii) Towing assistance will be provided from at least one mile above the regulated navigation area to at least one mile below the regulated navigation area.

(3) All vessels are prohibited from loitering in the regulated navigation area.

(4) Vessels may enter the regulated navigation area for the sole purpose of transiting to the other side and must maintain headway throughout the transit.

(5) All personnel on open decks must wear a Coast Guard approved Type I personal flotation device while in the regulated navigation area.

(6) Vessels may not moor or lay up on the right or left descending banks of the regulated navigation area.

(7) Towboats may not make or break tows in the regulated navigation area.

(8) Vessels may not pass (meet or overtake) in the regulated navigation area and must make a SECURITE call when approaching the barrier to announce intentions and work out passing arrangements on either side.

(9) Commercial tows transiting the regulated navigation area must be made up with wire rope to ensure electrical connectivity between all segments of the tow.

(e) *Compliance.* All persons and vessels must comply with this section and any additional instructions of the Ninth Coast Guard District Commander, or his designated representative.

■ 4. A new temporary § 165.T09-4001 is added to read as follows:

**§ 165.T09-4001 Safety Zone; Chicago Sanitary and Ship Canal, Romeoville, IL.**

(a) *Safety Zone.* The following area is a temporary safety zone: All waters of the Chicago Sanitary and Ship Canal from mile marker 296.1 to 296.7.

(b) *Effective period.* This regulation is effective from 7 a.m., July 14, 2008 to 5 p.m., August 9, 2008. The safety zone

will be enforced from 7 a.m. to 12 p.m. and 1 p.m. to 5 p.m. on July 14, 2008 through August 9, 2008.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his on-scene representative, for paragraph (a) of this section.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan, or his on-scene representative, for paragraph (a) of this section.

(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 for paragraph (a) of this section. 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 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 Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: June 24, 2008.

**David R. Callahan,**

*Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.*

[FR Doc. E8-14993 Filed 7-1-08; 8:45 am]

**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2008-0511]

**RIN 1625-AA00**

**Safety Zone; Red, White, and Blue Fireworks, Incline Village, NV**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of Lake Tahoe for the loading, transport, and launching of fireworks to celebrate Independence Day. This safety zone is established to

ensure the safety of participants and spectators from the dangers associated with the pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or his designated representative.

**DATES:** This rule is effective from 8 a.m. on June 28, 2008, through 10:30 p.m. on July 4, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0511 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: 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, and Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Lieutenant Junior Grade Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 399-7436. 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 event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, the safety zone is necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public