

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[USCG–2011–0003]

RIN 1625–AA11

**Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Illinois Waterway System Located Within the Ninth Coast Guard District; Stay (Suspension)****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Commander, Ninth Coast Guard District is temporarily staying (suspending) reporting requirements under the Regulated Navigation Area (RNA) established by 33 CFR 165.921 for barges loaded with certain dangerous cargoes (CDC barges) in that portion of the Illinois Waterway System located in the Ninth Coast Guard District. During this suspension, the Coast Guard will analyze future reporting needs and evaluate possible changes in CDC reporting requirements. A final rule will either lift the suspension and restore the obligation of the affected public to comply with the existing reporting requirements, modify those requirements, or repeal the RNA. This suspension of the CDC reporting requirements in no way relieves towing vessel operators and fleeting area managers responsible for CDC barges in the RNA from their dangerous cargo or vessel arrival and movement reporting obligations currently in effect under other regulations or placed into effect under appropriate Coast Guard authority.

**DATES:** Effective midnight January 15, 2011, 33 CFR 165.921(d)–(h) are stayed until midnight January 15, 2013.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0003 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0003 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 about this temporary

rule, call or e-mail LCDR Ted Fowles, Coast Guard; telephone 216–902–6010, e-mail: [Ted.R.Fowles@uscg.mil](mailto:Ted.R.Fowles@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)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable, unnecessary, and contrary to the public interest. The contract for the current CDC barge reporting system at the Inland River Vessel Movement Center (IRVMC) was extended to January 2011. In late December 2010 it was determined that the IRVMC reporting requirements would be suspended for a two-year period beginning at midnight January 15, 2011. As of January 16, 2011, the Coast Guard will have no way to receive and process reports. The short time span between late December and January 15 makes it impracticable to issue a notice of proposed rulemaking (NPRM) about suspension of the reporting requirements of 33 CFR 165.921 or to take public comments on the same. We believe prior notice and comment is unnecessary because we expect the affected public will have no objection to the temporary suspension of regulatory requirements. Prior notice and comment is also contrary to the public interest because there is no public purpose served by continuing to require reports when there is no mechanism for receiving or processing those reports.

Under 5 U.S.C. 553(d)(1), a substantive rule that relieves a restriction may be made effective less than 30 days after publication. This temporary final rule, suspending the reporting requirements and thereby relieving the regulatory restriction on towing vessel operators and fleeting area managers provided by 33 CFR 165.921, takes effect at midnight on January 15, 2011, less than 30 days after publication.

**Background and Purpose**

The legal basis for this rulemaking is the Coast Guard’s authority to establish regulated navigation areas, under 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; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1. An RNA is a water area within a defined boundary for which regulations for vessels navigating within the area have been established, to control vessel traffic in a place determined to have hazardous conditions. 33 CFR 165.10; Commandant Instruction Manual M16704.3A, 1–6.

The purpose of this temporary final rule is to suspend the reporting requirements for CDC barges imposed by the RNA created in 33 CFR 165.921. This temporary rule relieves the towing vessel operators and fleeting area managers responsible for CDC barges from the reporting requirements for a two-year period.

**Discussion of Rule**

During the suspension of reporting requirements, towing vessel operators and fleeting area managers responsible for CDC barges will be relieved of their obligation to report their CDCs under 33 CFR 165.921(d)–(h). This suspension in no way relieves towing vessel operators and fleeting area managers responsible for CDC barges from their dangerous cargo or vessel arrival and movement reporting obligations currently in effect under other regulations or placed into effect under appropriate Coast Guard authority.

**Regulatory Analyses**

We developed this temporary final 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. This rule is temporary and limited in nature by suspending CDC barge reporting requirements during a two-year period, creating no undue delay to vessel traffic in the regulated area.

### 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 which may be small entities: owners or operators of CDC barges intending to transit that portion of the Illinois Waterway System located in the Ninth Coast Guard District during this two-year period. This rule will not have a significant economic impact on those entities or a substantial number of any small entities for the following reason. This rule suspends reporting requirements for two years.

### 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 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 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 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.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 which 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 a two-year suspension of the reporting requirements in an RNA for CDC barges.

This temporary rule suspends the reporting requirements established for CDC barges transiting that portion of the Illinois Waterway System located in the Ninth Coast Guard District. Under figure 2–1, paragraph (34)(g), 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 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. Amend 33 CFR 165.921 by staying paragraphs (d)–(h) from midnight January 15, 2011 to midnight January 15, 2013.

Dated: January 7, 2011.

**Michael N. Parks,**

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

[FR Doc. 2011–852 Filed 1–14–11; 8:45 am]

**BILLING CODE 9110–04–P**

### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG–2010–1138]

#### **Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of Enforcement of Regulation.

**SUMMARY:** The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 daily from 7 a.m. through 11 a.m. and from 1 p.m. to 5 p.m. on January 18–22, 2011; January 24–26, 2011; January 31, 2011; February 1–5, 2011; February 7–12, 2011; and on February 14–19, 2011. This enforcement action will also occur from 7 a.m. on January 27, 2011 through 7 a.m. on January 29, 2011. This action is necessary to protect the waterways, waterway users, and vessels from hazards associated with the U.S. Army Corps of Engineers' operational and safety testing of the dispersal barrier IIB, which helps control the spread of

aquatic nuisance species that have the potential of devastating the waters of the Great Lakes.

During the enforcement period, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

**DATES:** The regulations in 33 CFR 165.T09.0166 will be enforced from 7 a.m. on January 18, 2011 through 5 p.m. on February 19, 2011.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail CDR Tim Cummins, Deputy Prevention Division, Ninth Coast Guard District, telephone 216–902–6045, e-mail address [Timothy.M.Cummins@uscg.mil](mailto:Timothy.M.Cummins@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR § 165.T09–0166, on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 daily from 7 a.m. to 11 a.m. and from 1 p.m. to 5 p.m. on January 18–22, 2011; January 24–26, 2011; January 31, 2011; February 1–5, 2011; February 7–12, 2011; and on February 14–19, 2011. This enforcement action will also occur from 7 a.m. on January 27, 2011 until 7 a.m. on January 29, 2011.

This enforcement action is necessary because the Captain of the Port, Sector Lake Michigan has determined that the U.S. Army Corps of Engineers' dispersal barrier IIB operational testing poses risks to life and property. The combination of vessel traffic and electric current in the water makes the controlling of vessels through the impacted portion of the Chicago Sanitary and Ship Canal necessary to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

This notice is issued under authority of 33 CFR 165.T09–0166 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Sector Lake Michigan, will also provide notice through other means,

which may include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port, Sector Lake Michigan, may notify representatives from the maritime industry through telephonic and e-mail notifications.

Dated: December 29, 2010.

**S.R. Schenk,**

*Commander, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan, Acting.*

[FR Doc. 2011–851 Filed 1–14–11; 8:45 am]

**BILLING CODE 9110–04–P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[EPA–R03–OAR–2010–0881; FRL–9251–9]

#### **Approval and Promulgation of Air Quality Implementation Plans; Virginia; Adoption of 8-hour Ozone Standard and Related Reference Conditions, and Update of Appendices**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Commonwealth of Virginia State Implementation Plan (SIP). The revision adds the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) of 0.075 parts per million (ppm) and related reference conditions and updates the list of appendices under “Documents Incorporated by Reference.” Virginia’s SIP revision for the NAAQS for ozone is consistent with the 8-hour Federal standard. This action is being taken under the Clean Air Act (CAA).

**DATES:** This rule is effective on March 21, 2011 without further notice, unless EPA receives adverse written comment by February 17, 2011. If EPA receives such comments, it 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 Number EPA–R03–OAR–2010–0881 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

C. *Mail:* EPA–R03–OAR–2010–0881, Marilyn Powers, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency,