

Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule call Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The Route 1 & 9 (Lincoln Highway) Bridge across the Hackensack River at mile 1.8, at Jersey City, New Jersey, has a vertical clearance in the closed position of 35 feet at mean high water and 40 feet at mean low water. The bridge opens on signal as required by 33 CFR 117.723(a)(5).

The bridge owner, the New Jersey Department of Transportation, requested a temporary deviation to require at least a two hour advance notice for bridge openings to allow workers sufficient time to clear painting equipment from the lift span in order to provide bridge openings.

In addition, several bridge closures will be necessary during the effective time period for this temporary deviation in order to facilitate various phases of this bridge painting project that must be completed with the bridge closed.

The exact times and dates for the bridge closures could not be determined prior to publication of this temporary deviation. They will be announced in the Local Notice to Mariners two weeks prior to their implementation. A broadcast notice to mariners will also be initiated twenty four hours in advance to further inform mariners of the proposed bridge closures.

Under this deviation the Route 1 & 9 (Lincoln Highway) Bridge shall require at least a two hour advance notice for bridge openings from April 1, 2010 through September 15, 2010. In addition, several bridge closures to be announced as stated above, will occur during the effective period of this temporary deviation from April 1, 2010 and September 15, 2010.

Vessels able to pass under the closed draw may do so at all times.

The waterway is primarily used by deep draft tankers, tugs and barge units. Waterway users were advised of the requested bridge closure period and offered no objection.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 16, 2010.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2010-7238 Filed 3-30-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0198]

RIN 1625-AAOO

#### Safety Zone; Red River, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard Captain of the Port (COTP), Marine Safety Unit Duluth, MN is establishing a temporary safety zone on the waters of the Red River, MN. This safety zone is being established to ensure the safety of the public. The safety zone will prevent individuals from entering all navigable waters of the Red River in the State of Minnesota north of a line drawn across latitude 46°20'00" N, including those portions of the river in Wilkin, Clay, Norman, Polk, Marshall and Kittson counties, to the United States-Canada international border.

**DATES:** *Effective Date:* This rule is effective in the CFR from March 31, 2010 until 5 p.m. on April 24, 2010. This rule is effective with actual notice for purposes of enforcement beginning 12 p.m. March 19, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0198 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0198 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Aaron L. Gross, Chief of Port Operations, Marine Safety Unit Duluth, Coast Guard; telephone 218-720-5286 ext 111, e-mail [Aaron.L.Gross@uscg.mil](mailto:Aaron.L.Gross@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager,

Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

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

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**. Good cause for making this rule effective less than 30 days after publication exists because delaying the effective date would be contrary to public interest because of the dangers associated with emergency flooding conditions on the Red River.

##### Background and Purpose

Flooding conditions along the Red River have created serious dangers to the boating public. The strong currents and floating debris associated with the flooding of the Red River necessitate the Coast Guard limiting access to the portions of the river affected by this rule in order to protect the public.

This temporary safety zone is necessary to ensure the safety of the public from hazards involved with the flooding of the Red River. Restricted access to the Red River by the public will help ensure the safety of persons and property along the Red River.

##### Discussion of Rule

The Coast Guard is establishing a temporary safety zone to encompass certain waters of the Red River in the Duluth Captain of the Port (COTP) Zone. The safety zone will prevent individuals from entering all navigable waters of the Red River in the State of Minnesota north of a line drawn across latitude 46°20'00" N, including those portions of the river in Wilkin, Clay, Norman, Polk, Marshall and Kittson counties, to the United States-Canada international border.

The COTP may stop enforcement of this safety zone before 5 p.m. on April

24, 2010 if river conditions change such that enforcement of the safety zone is no longer necessary for the public's safety. COTP will notify the public via a Broadcast Notice to Mariners.

### 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.

### Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the portions of the Red River affected by this safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Few small business entities operate on the affected portion of the river and this rule will be enforced for a limited time, only until the Red River is deemed safe to transit.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to

the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and

does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.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. This rule involves the establishment of a temporary safety zone to protect the public from dangerous water conditions. An environmental analysis checklist and a 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, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

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

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09-0198 to read as follows:

#### § 165.T09-0198 Safety zone; Red River, MN.

(a) *Location.* The following area is a temporary safety zone: All navigable waters of the Red River in the State of Minnesota north of a line drawn across latitude 46°20'00" N, including those portions of the river in Wilkin, Clay, Norman, Polk, Marshall and Kittson counties, to the United States-Canada international border.

(b) *Enforcement period.* This rule is effective from 12 p.m. on March 19, 2010 until 5 p.m. on April 24, 2010. If the river conditions change such that enforcement of the safety zone is unnecessary prior to 5 p.m. on April 24, 2010, the COTP will notify the public via a Broadcast Notice to Mariners.

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

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

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

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

March 19, 2010.

**M.P. Lebsack,**

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

[FR Doc. 2010-7158 Filed 3-30-10; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 51 and 52

**[EPA-HQ-OAR-2004-0014; FRL-9131-9; 2060-AP73]**

#### Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Inclusion of Fugitive Emissions; Final Rule; Stay

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

**ACTION:** Final rule.

**SUMMARY:** In this final action, EPA is issuing a stay for 18 months of the inclusion of fugitive emissions requirements in the federal Prevention of Significant Deterioration (PSD) program published in the **Federal Register** on December 19, 2008, in the final rule entitled, “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Fugitive Emissions” (“Fugitive Emissions Rule”). The Fugitive Emissions Rule under the federal PSD program requires that fugitive emissions be included in determining whether a physical or operational change results in a major modification only for sources in industries that have been designated through rulemaking under section 302(j) of the Clean Air Act (Act or CAA). The existing stay is in effect for 3 months; that is, from December 31, 2009 until

March 31, 2010. This action puts in place an additional stay for 18 months, which we believe will allow for sufficient time for EPA to propose, take public comment on, and issue a final action concerning the inclusion of fugitive emissions in the federal PSD program.

**DATES:** The amendments to 40 CFR parts 51 and 52 in this rule are effective from April 1, 2010 through October 3, 2011. Effective April 1, 2010, the following Code of Federal Regulations sections are administratively stayed until October 3, 2011: 40 CFR 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(3), (a)(1)(ix), (a)(1)(xxviii)(B)(2), (a)(1)(xxviii)(B)(4), (a)(1)(xxxv)(A)(1), (a)(1)(xxxv)(B)(1), (a)(1)(xxxv)(C), (a)(1)(xxxv)(D), (a)(2)(ii)(B), (a)(6)(iii), (a)(6)(iv), and (f)(4)(i)(D); 40 CFR 51.166, (a)(7)(iv)(b), (b)(2)(v), (b)(3)(iii)(c), (b)(3)(iii)(d), (b)(20), (b)(40)(ii)(b), (b)(40)(ii)(d), (b)(47)(i)(a), (b)(47)(ii)(a), (b)(47)(iii), (b)(47)(iv), (r)(6)(iii) and (r)(6)(iv), and (w)(4)(i)(d); 40 CFR part 51, Appendix S, paragraphs II.A.5(vii), II.A.6(ii), II.A.9, II.A.24(ii)(b), II.A.24(ii)(d), II.A.30(i)(a), II.A.30(ii)(a), II.A.30(iii), II.A.30(iv), IV.I.1(ii), IV.J.3, IV.J.4, and IV.K.4(i)(d); and 40 CFR 52.21, (a)(2)(iv)(b), (b)(2)(v), (b)(3)(iii)(b), (b)(3)(iii)(c), (b)(20), (b)(41)(ii)(b), (b)(41)(ii)(d), (b)(48)(i)(a), (b)(48)(ii)(a), (b)(48)(iii), (b)(48)(iv), (r)(6)(iii), (r)(6)(iv), and (aa)(4)(i)(d).

**ADDRESSES:** *Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1742, and the telephone number for the Air Docket is (202) 566-1744.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Wheeler, Air Quality Policy Division, (C504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number (919) 541-9771; fax