

(c) *General Counsel requests to the Authority.* When a complaint issues and the Authority approves the General Counsel's request to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d), the General Counsel may make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or transacts business. Temporary relief may be sought if it is just and proper and the record establishes probable cause that an unfair labor practice is being committed. Temporary relief shall not be sought if it would interfere with the ability of the agency to carry out its essential functions.

(d) *Actions subsequent to obtaining appropriate temporary relief.* The General Counsel shall inform the district court which granted temporary relief pursuant to 5 U.S.C. 7123(d) whenever an Administrative Law Judge recommends dismissal of the complaint, in whole or in part.

§ 2423.11 Determination not to issue complaint; review of action by the Regional Director.

(a) *Opportunity to withdraw a charge.* If the Regional Director determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the Charging Party to withdraw the charge.

(b) *Dismissal letter.* If the Charging Party does not withdraw the charge within a reasonable period of time, the Regional Director will dismiss the charge and provide the parties with a written statement of the reasons for not issuing a complaint.

(c) *Appeal of a dismissal letter.* The Charging Party may obtain review of the Regional Director's decision to dismiss a charge by filing an appeal with the General Counsel within 25 days after service of the Regional Director's decision. A Charging Party shall serve a copy of the appeal on the Regional Director. The General Counsel shall serve notice on the Charged Party that an appeal has been filed.

(d) *Extension of time.* The Charging Party may file a request, in writing, for an extension of time to file an appeal, which shall be received by the General Counsel not later than 5 days before the date the appeal is due. A Charging Party shall serve a copy of the request for an extension of time on the Regional Director.

(e) *Grounds for granting an appeal.* The General Counsel may grant an appeal when the appeal establishes at least one of the following grounds:

(1) The Regional Director's decision did not consider material facts that would have resulted in issuance of a complaint;

(2) The Regional Director's decision is based on a finding of a material fact that is clearly erroneous;

(3) The Regional Director's decision is based on an incorrect statement or application of the applicable rule of law;

(4) There is no Authority precedent on the legal issue in the case; or

(5) The manner in which the Region conducted the investigation has resulted in prejudicial error.

(f) *General Counsel action.* The General Counsel may deny the appeal of the Regional Director's dismissal of the charge, or may grant the appeal and remand the case to the Regional Director to take further action. The General Counsel's decision on the appeal states the grounds listed in paragraph (e) of this section for denying or granting the appeal, and is served on all the parties. Absent a timely motion for reconsideration, the decision of the General Counsel is final.

(g) *Reconsideration.* After the General Counsel issues a final decision, the Charging Party may move for reconsideration of the final decision if it can establish extraordinary circumstances in its moving papers. The motion shall be filed within 10 days after the date on which the General Counsel's final decision is postmarked. A motion for reconsideration shall state with particularity the extraordinary circumstances claimed and shall be supported by appropriate citations. The decision of the General Counsel on a motion for reconsideration is final.

§ 2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.

(a) *Bilateral informal settlement agreement.* Prior to issuing a complaint, the Regional Director may afford the Charging Party and the Charged Party a reasonable period of time to enter into an informal settlement agreement to be approved by the Regional Director. When a Charged Party complies with the terms of an informal settlement agreement approved by the Regional Director, no further action is taken in the case. If the Charged Party fails to perform its obligations under the approved informal settlement agreement, the Regional Director may institute further proceedings.

(b) *Unilateral informal settlement agreement.* If the Charging Party elects

not to become a party to a bilateral settlement agreement, which the Regional Director concludes effectuates the policies of the Federal Service Labor-Management Relations Statute, the Regional Director may choose to approve a unilateral settlement between the Regional Director and the Charged Party. The Regional Director, on behalf of the General Counsel, shall issue a letter stating the grounds for approving the settlement agreement and declining to issue a complaint. The Charging Party may obtain review of the Regional Director's action by filing an appeal with the General Counsel in accordance with § 2423.11(c) and (d). The General Counsel may grant an appeal when the Charging Party has shown that the Regional Director's approval of a unilateral settlement agreement does not effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute. The General Counsel shall take action on the appeal as set forth in § 2423.11(b) through (g).

§§ 2423.13–2423.19 [Reserved]

Dated: March 17, 2010.

Julia Akins Clark,
General Counsel, Federal Labor Relations Authority.

[FR Doc. 2010–6201 Filed 3–19–10; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0797]

RIN 1625–AA00

Safety Zone; Invista Inc Facility Docks, Victoria Barge Canal, Victoria, TX

AGENCY: Coast Guard, DHS.

ACTION: Interim final rule with request for comments.

SUMMARY: The Coast Guard is establishing a safety zone for a partial blockage of the Victoria Barge Canal when the Invista Inc facility is offloading cargo from an oversized barge, which is approximately 380 feet in length. Commercial traffic will be prohibited from passing the barge while it is offloading cargo because the navigable width of the channel will be substantially reduced. The safety zone is necessary to help ensure the safety of the maritime public during these transfer operations.

DATES: This interim rule is effective April 21, 2010. Comments and related

material must reach the Coast Guard on or before June 21, 2010.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0797 using any one of the following methods:

(1) *Federal eRulemaking Portal:*
<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or e-mail LT Wes Geyer, Sector Corpus Christi Waterways Management Division, Coast Guard; telephone 361–888–3162, e-mail Wes.M.Geyer@uscg.mil. 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:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0797), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the

comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2009–0797” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8 ½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2009–0797” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request

for one on or before April 21, 2010 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this interim 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 any delay encountered in this regulation’s effective date by publishing a NPRM would be contrary to public interest. Transfer operations involving the oversized barge at the Invista Inc facility are scheduled to begin in May 2010 and rapid establishment of the safety zone is needed to mitigate the potential safety hazards associated with these operations.

Background and Purpose

The basis and purpose of this rule are to ensure safe operations during the hazardous condition that will be placed upon commercial traffic in the Victoria Barge Canal during transfer operations involving the oversized barge. Since the oversized barge will effectively take away 40 feet of the navigable channel, we believe it is necessary to establish a safety zone around the vessel so commercial traffic does not attempt to pass when the navigable channel will be reduced by 40 feet. We are using this interim rule to put an effective rule in place before commencement of transfer operations but wish to receive comments on it before issuing a final rule.

Discussion of Rule

The rule places a safety zone around the barge that is offloading cargo at the Invista Inc facility docks for two 24–30 hour periods per month. The approximate location of the dock is 28°39′50.5″ N 096°57′48.3″ W (approximately 1,500 feet north of Dupont Road which crosses the Victoria Barge Canal). The safety zone encompasses all waters of the canal in a zone extending 500 ft (152.2 m) east

and west of the Invista Inc facility docks.

The safety zone will be enforced for two 24–30 hour periods per month, during transfer operations involving an oversized barge at the facility. During these operations, the barge will extend approximately 40 feet into the 125-foot wide Victoria Barge Canal and will therefore reduce the navigable width of the channel. Use of and transit through the safety zone will be prohibited during these times, except with permission from the Captain of the Port Corpus Christi.

In addition, the Invista Inc facility has agreed to provide seven days notice to neighboring facilities before the oversized barge is scheduled to conduct transfer operations there. Furthermore, the Coast Guard will issue maritime advisories widely available to users of the barge canal before enforcement of the safety zone.

Regulatory Analyses

We developed this interim 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 not a significant regulatory action because there is minimal commercial and recreational vessel traffic that transits through this section of the Victoria Barge Canal. The rule will only be in effect approximately twice a month for a duration of 24–30 hours each time. Businesses adjacent to the Invista Inc facility (currently there are two) will have approximately seven days advance notice of the required safety zone.

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 and operators of vessels conducting business at Fordyce Holdings Inc and Equalizer.

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 enforced for approximately two 24–30 hour periods per month and the receiving facility will provide seven days notification to adjacent businesses on the Victoria Barge Canal. Each 24–30 hour period will be separated by at least a 24-hour period while the barge returns to Port Lavaca-Point Comfort to receive more cargo. Neighboring businesses and the Port of Victoria have agreed that with a seven-day notification they will be able to ship or receive enough cargo to maintain adequate feedstock supplies to operate. Vessel traffic will have a minimum of 24 hours between each time the safety zone would go into effect, which local parties have agreed would be enough time to ship or receive any product they may need in the interim. Before the enforcement period, the Coast Guard will issue broadcast notice to mariners (BNM) alerts to users of the barge canal, and the Captain of the Port may authorize entry into the zone if necessary.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 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 M16475.1D, 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 because it establishes a safety zone. 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 § 165.837 to read as follows:

§ 165.836 Safety Zone; Invista Inc Facility Docks, Victoria Barge Canal, Victoria, Texas.

(a) *Location*. The following area is a safety zone: All waters contained within a 500-foot (152.5m) extension east and west of the Invista Inc facility docks while performing offloading operations.

(b) *Enforcement Period*. This rule will be enforced for periods of 24–30 hours twice a month, from the time the oversized barge docks at the Invista Inc facility until the vessel departs the facility upon conclusion of its offloading operations. The Captain of the Port Corpus Christi will issue a Broadcast Notice to Mariners before beginning enforcement and upon ceasing enforcement of the safety zone.

(c) *Definitions*. The following definition applies to this section: *designated representative* means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and Federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port Corpus Christi.

(d) *Regulations*. (1) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number 1-361-939-6393, or the barge on VHF Channel 16 (156.800MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(3) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means the operator of a vessel must proceed as directed.

(4) The Coast Guard may be assisted by other Federal, State, or local agencies.

(5) In accordance with the general regulations in 33 CFR part 165.23, no person or vessel may enter or remain in the zone described in paragraph (a) of this section except for support vessels/ aircraft and support personnel, or other vessels authorized by the Captain of the Port Corpus Christi or his designated representative.

(e) *Penalties*. Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: November 19, 2009.

R.J. Paulison,

Captain, U.S. Coast Guard, Captain of the Port Corpus Christi.

Editorial Note: This document was received in the Office of the Federal Register on March 16, 2010.

[FR Doc. 2010-6161 Filed 3-19-10; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R10-OAR-2008-0690; FRL-9091-5]

Approval and Promulgation of State Implementation Plans: Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve numerous revisions to Alaska's State Implementation Plan (SIP) relating to the motor vehicle inspection and maintenance (I/M) program for the control of carbon monoxide (CO) in Anchorage and Fairbanks maintenance areas for CO. The State of Alaska submitted three revisions to the Alaska SIP: a March 29, 2002 submittal containing minor revisions to the statewide I/M program; a December 11, 2006 submittal containing more substantial revisions to the statewide I/M program; and a June 5, 2008 submittal containing major revisions to the statewide I/M program discontinuing the I/M program in Fairbanks as an active control measure in the SIP and shifting it to a contingency measure. EPA is approving these submittals because they satisfy the