

## PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

22. The authority citation for part 251 is revised to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*; 31 U.S.C. 9701.

23. In § 251.5, revise paragraph (a) to read as follows:

### § 251.5 Applying for permits or filing Notices.

(a) *Permits.* You must submit a signed original and three copies of the MMS permit application form (Form MMS-327). The form includes names of persons, type, location, purpose, and dates of activity, and environmental and other information. A nonrefundable service fee of \$ 1,900 must accompany your application. The time period for extensions is defined on the permit form (Form MMS-328 (Geophysical Prospecting) or MMS-329 (Geological Prospecting)).

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## PART 280—PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR ON THE OUTER CONTINENTAL SHELF

24. The authority citation for part 280 is revised to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*; 42 U.S.C. 4332 *et seq.*; 31 U.S.C. 9701.

25. In § 280.12, revise paragraph (a) to read as follows:

### § 280.12 What must I include in my application or notification?

(a) *Permits.* You must submit to the RD a signed original and three copies of the permit application form (form MMS-134) at least 30 days before the startup date for activities in the permit area. If unusual circumstances prevent you from meeting this deadline, you must immediately contact the RD to arrange an acceptable deadline. The form includes names of persons, type, location, purpose, and dates of activity, as well as environmental and other information. A nonrefundable service fee of \$ 1,900 must accompany your application. The time period for extensions is defined on the permit form (Form MMS-135 (Geophysical Exploration) or MMS-136 (Geological Exploration)).

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[FR Doc. 05-22504 Filed 11-10-05; 8:45 am]

BILLING CODE 4310-MR-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[CGD09-05-131]

RIN 1625-AA11

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a permanent regulated navigation area on the Chicago Sanitary and Ship Canal on the Illinois Waterway near Romeoville, IL. This permanent regulated navigation area will place navigational and operational restrictions on all vessels transiting through the demonstration electrical dispersal barrier located on the Chicago Sanitary and Ship Canal. This regulated navigation area is necessary to protect vessels and their crews from harm as a result of electrical discharges emitting from the electrical dispersal barrier as vessels transit over it.

**DATES:** Comments and related materials must reach the Coast Guard on or before December 14, 2005.

**ADDRESSES:** You may mail comments and related material to Commander (dpw-1) Ninth Coast Guard District, 1240 E.9th Street, Room 2069, Cleveland, OH 44199. The Ninth Coast Guard District Planning and Development Section (dpw-1) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have further questions on this rule, contact CDR K. Phillips, Planning and Development Section, Ninth Coast Guard District, Cleveland, OH at (216) 902-6045.

### SUPPLEMENTARY INFORMATION:

#### Request for Comments

We encourage you to submit comments and related materials. If you submit a comment, please include your name and address, identify the docket number for this rulemaking [CGD09-05-131], indicate the specific section of this document to which each comment applies, and give the reason for each

comment. You may submit your comments and material by mail (see **ADDRESSES**). If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them 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, which may result in a modification to the rule.

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a public meeting (see **ADDRESSES**) explaining why one 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**.

### Background and Purpose

On January 7, 2005, the U.S. Army Corps of Engineers, in close coordination with the U. S. Coast Guard, conducted preliminary safety tests on the electrical dispersal barrier located at Mile Marker 296.5 of the Chicago Sanitary and Ship Canal near Romeoville, IL. 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 Coast Guard and Army Corps of Engineers conducted field tests to ensure the continued safe navigation of commercial and recreational traffic across the barrier; however, results indicated a significant arcing risk and hazardous electrical discharges as vessels transited the barrier posing a significant risk to navigation through the barrier. To mitigate these risks, the proposed rule would place navigational and operational restrictions on all vessels transiting through the vicinity.

On January 26, 2005 a regulated navigational area (RNA) was published in the **Federal Register** (70 FR 3625) as a temporary final rule. The temporary final rule was extended on August 10, 2005 (70 FR 46407). Testing has continued since the regulation was first proposed in January 2005, but has not yet been completed. Preliminary results indicate that further tests and analysis are warranted and that this process may continue for an undetermined period of time. Therefore, the Coast Guard is proposing to establish a permanent RNA.

## Discussion of Rule

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. The regulated navigation area encompasses all waters of the Chicago Sanitary and Ship Canal from the north side of the Romeo Highway Bridge at Mile Marker 296.1 to the aerial pipeline arch located at Mile Marker 296.7. The requirements placed on vessels include: All vessels are prohibited from loitering in the regulated navigation area, vessels may enter the regulated navigation area for the sole purpose of transiting to the other side, and must maintain headway throughout the transit, all personnel on open decks must wear a Coast Guard approved Type I personal flotation device while in the regulated navigation area, vessels may not moor or lay up on the right or left descending banks in the regulated navigation area, towboats may not make or break tows in the regulated navigation area, 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, and commercial tows transiting the regulated navigation area must be made up with wire rope to ensure electrical connectivity between all segments of the tow.

These restrictions are necessary for safe navigation of the regulated navigation area and to ensure the safety of vessels and their personnel as well as the public's safety due to the electrical discharges noted during recent safety tests conducted by the Army Corps of Engineers. Deviation from this rule is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or his designated representative. The Commander, Ninth Coast Guard District will designate Captain of the Port, Lake Michigan as his designated representative for the purposes of this rule.

## Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This determination is based on the fact that traffic will still be able to transit through the RNA.

## 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.

We suspect that there may be small entities affected by this rule but are unable to provide more definitive information as to the number of small entities that may be affected. The risk, outlined above, is severe and requires that immediate action be taken. The Coast Guard will evaluate whether a substantial number of small entities are affected as more information becomes available.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain 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 offered 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 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).

## 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 Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 we believe this rule should be categorically excluded, under figure 2–1, paragraph 34(g) from further environmental documentation. This temporary rule establishes a regulated navigation area and as such is covered by this paragraph.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**. Comments on this section

will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

### 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 proposes to amend 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. Add § 165.923 to read as follows:

#### § 165.923 Regulated Navigation Area between mile markers 296.1 and 296.7 of the Chicago Sanitary and Ship Canal located near Romeoville, IL.

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

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

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

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

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

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

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

(7) 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.

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

(c) *Compliance.* All persons and vessels shall comply with this rule and

any additional instructions of the Ninth Coast Guard District Commander, or his designated representative. The Captain of the Port, Lake Michigan is a designated representative of the District Commander for the purposes of this rule.

Dated: October 31, 2005.

**T.W. Sparks,**

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

[FR Doc. 05–22497 Filed 11–10–05; 8:45 am]

**BILLING CODE 4910–15–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[R05–OAR–2005–IN–0009; FRL–7996–1]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Greene County and Jackson County 8-Hour Ozone Nonattainment Areas to Attainment for Ozone

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make determinations that the Greene County and Jackson County ozone nonattainment areas have attained the 8-hour ozone National Ambient Air Quality Standard (NAAQS). These proposed determinations are based on three years of complete, quality-assured ambient air quality monitoring data for the 2002–2004 seasons that demonstrate that the 8-hour ozone NAAQS has been attained in the areas.

EPA is proposing to approve requests from the State of Indiana to redesignate the Greene County and Jackson County areas to attainment of the 8-hour ozone NAAQS. These requests were submitted by the Indiana Department of Environmental Management (IDEM) on July 15, 2005 and supplemented on September 6, 2005, September 7, 2005, October 6, 2005, and October 20, 2005. In proposing to approve these requests, EPA is also proposing to approve the State's plans for maintaining the 8-hour ozone NAAQS through 2015 in these areas as a revision to the Indiana State Implementation Plan (SIP). EPA is also proposing to find adequate and approve the State's 2015 Motor Vehicle Emission Budgets (MVEBs) for these areas.

In the final rules section of this **Federal Register**, EPA is approving the SIP revisions as a direct final rule without prior proposal, because EPA