

of the Gulf of Mexico near Mississippi Canyon 252.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending or first response vessel; or

(2) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

Dated: 26 April 2010.

**Mary E. Landry,**

*Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 2010-10945 Filed 5-10-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0166]

RIN 1625-AA00

#### **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:** Temporary interim rule with request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone from Brandon Road Lock and Dam to Lake Michigan. This temporary safety zone will cover 77 miles of navigable waterways in the Chicago area. This temporary interim rule is intended to restrict vessels from entering certain segments of the navigable waters of the Des Plaines River, the Chicago Sanitary and Ship Canal (CSSC), branches of the Chicago River, and the Calumet-Saganashkee Channel (Cal-Sag Channel). This temporary safety zone is necessary to protect the waters, waterway users and vessels from hazards associated with a myriad of actions designed to control the spread of aquatic nuisance species. Because Federal and State agencies may take such actions at any time and in any segment of the waterways covered by this temporary safety zone, this rule provides the Captain of the Port, Sector Lake Michigan, the ability to take targeted and expeditious action in order to protect vessels and persons from the hazards associated with any Federal and State efforts to control aquatic nuisance species.

**DATES:** *Effective Date:* This rule is effective in the CFR on May 11, 2010 through March 1, 2011. This rule is effective with actual notice for purposes of enforcement on April 28, 2010. This rule will remain in effect until March 1, 2011.

**Comment Period:** Comments and related material must reach the Coast Guard on or before July 12, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-0166 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 rule, call 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). If you have questions related to the application of piscicide, please contact Mr. Bill Bolen, U.S. Environmental Protection Agency, Senior Advisor, Great Lakes National Program Office, 77 W. Jackson Blvd., Chicago, IL 60604, at (312) 353-6316. If you have questions on viewing 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-2010-0166),

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 deliver, or mail your comment, it will be considered received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and mailing address, e-mail address, or 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-2010-0166" 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 8½ 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-2010-0166" 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 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 temporary 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 temporary interim rule because doing so would be both impracticable and contrary to the public interest.

The serious threat posed by Asian Carp migration requires swift development and implementation of Federal and State countermeasures to fight the spread of this invasive species. The Coast Guard anticipates that Federal and State agencies, intensely focused on controlling the Asian Carp migration, will often act with little notice when implementing their countermeasures. Because the Coast Guard expects these countermeasures to pose serious risks to life and property along the waterways discussed in this rule, it is necessary that the Coast Guard stand at the ready to rapidly respond to any action taken by Federal or State agents. Waiting for the NPRM process to run would delay the Coast Guard's readiness to protect the general public and therefore, is impracticable and contrary to the public interest.

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**. Just like with the NPRM process, waiting 30 days after this rule's

publication in the **Federal Register** for it to go into effect would delay the Coast Guard's readiness and ability to respond commensurate to any swift action taken by Federal and State agencies. Delaying the effective date of this rule, therefore, is impracticable and contrary to the public interest.

While we are issuing this regulation under the good cause provisions of the APA, we do value public input into our rulemaking. For this reason, we request comments on this rule and may change the provisions of this temporary regulation in response to comments.

#### Background and Purpose

In 2007, the Department of the Interior through the Fish and Wildlife Service listed the Asian Carp and the Silver Carp as Injurious Wildlife Species. Based upon testing conducted by the United States Army Corps of Engineers (USACE), the Asian Carp is presently migrating toward the Great Lakes through the Chicago Sanitary and Ship Canal and connected tributaries. If these aquatic nuisance species reach the Great Lakes in sufficient numbers, scientists are concerned that they might devastate the Great Lakes commercial and sport fishing industries.

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended by the National Invasive Species Act of 1996, authorized the USACE to conduct a demonstration project to identify an environmentally sound method for preventing and reducing the dispersal of non-indigenous aquatic nuisance species through the Chicago Sanitary and Ship Canal. The USACE selected an electric barrier because it is a non-lethal deterrent with a proven history, which does not overtly interfere with navigation in the canal.

A demonstration dispersal barrier (Barrier I) was constructed and has been in operation since April 2002. It is located approximately 30 miles from Lake Michigan and creates an electric field in the water by pulsing low voltage DC current through steel cables secured to the bottom of the canal. A second barrier (Barrier IIA) was constructed 800 to 1300 feet downstream of the Barrier I. Barrier IIA is currently operating at two volts per inch. Construction on a third barrier (Barrier IIB) is in the initial stages; Barrier IIB will augment the capabilities of Barriers I and IIA and may allow for maintenance operations without the use of aquatic nuisance species countermeasures.

In November 2009, the USACE announced that it had discovered environmental DNA (E-DNA) north of the fish barrier suggesting the potential

presence of Asian Carp. A possible explanation of barrier circumvention by the aquatic nuisance species was through flooding in parallel waterways, or the inadvertent transport of eggs, gametes or juvenile carp in the non-potable water of vessels transiting the barrier.

The USACE is conducting further investigations to detect the potential presence of Asian Carp and other aquatic nuisance species both north and south of the fish barrier. Upon detection of the presence of Asian Carp or other aquatic nuisance species within any segment of the waterways covered by this safety zone, the USACE, along with its Federal and State partners, may take action designed to control the spread of aquatic nuisance species, within the area of detection, as soon as practically possible. Due to the possibility of Asian Carp fish or eggs circumventing the fish barrier, the USACE and the Illinois Department of Natural Resources (IDNR) may conduct aquatic nuisance species countermeasures in the vicinity of the fish barrier.

One of the primary aquatic nuisance species countermeasures will be the application of piscicide. The effective application of piscicide is essential in preventing the Asian carp from entering the Great Lakes. IDNR reports that vessels moored along waterways could create pockets or eddies where the piscicide is not able to reach all of the targeted aquatic nuisance species. As such, the Captain of the Port, Sector Lake Michigan, must be able to order a vessel's immediate removal from any enforced portion of the temporary safety zone. Exceptions may possibly be granted upon the review of the Captain of the Port, Sector Lake Michigan.

Another aquatic nuisance species countermeasure that may be employed will be targeted fishing operations. Fishing nets may be deployed across the channel for extended periods of time which would have an adverse effect on vessel traffic.

The intent of aquatic nuisance species countermeasure operations by the USACE and IDNR is to eradicate any Asian Carp or other aquatic nuisance species that may be present in the waterways subject to this temporary safety zone. The countermeasures taken by the USACE and IDNR may have fatal effects to native fish species, in addition to the targeted invasive species. Therefore, the USACE and IDNR will specifically target those portions of waterways suspected of containing Asian Carp and other aquatic nuisance species.

## Discussion of Rule

This rule places a temporary safety zone on 77 miles of waterways from Brandon Road Lock and Dam (mile marker 286.0) to Lake Michigan, including the waterways of the Des Plaines River, the CSSC, branches of the Chicago River, and the Calumet-Saganashkee Channel (Cal-Sag Channel). The Coast Guard has deemed this temporary safety zone necessary to protect the waters, commercial vessels and recreational boaters who transit the area during the application of aquatic nuisance species countermeasures. Because it is difficult to predict with certainty the type and degree of aquatic nuisance countermeasures that might be in place along the affected waterways one year from now, this rule is temporary in nature and expires on March 11, 2011. This rule does not amend, remove or supersede 33 CFR § 165.T09-1080, which was published in the January 6, 2010 issue of the **Federal Register** (75 FR 759) to establish a safety zone and regulated navigation area (RNA) on the CSSC near Romeo Road Bridge, Romeoville, IL, or any other regulation currently applicable to the waterways covered by this safety zone.

The Captain of the Port, Sector Lake Michigan, may enforce this safety zone in whole or in segments. Although the safety zone may be enforced in its entirety, it is the intention of the Captain of the Port, Sector Lake Michigan to enforce the safety zone, depending on the circumstances, in the smallest segments possible. By enforcing only segments of the safety zone, the Captain of the Port, Sector Lake Michigan, retains the flexibility to focus enforcement efforts only on those portions of the safety zone actually affected by aquatic nuisance species countermeasures. It is expected that this enforcement scheme will minimize waterway closures and any corresponding effects on vessel traffic. Any segment of the temporary safety zone to be enforced shall be delineated by mile markers and/or landmarks (e.g., Romeo Road Bridge).

Vessels may transit through any portion of the safety zone that is not being enforced. Entry into, transiting, mooring, laying up, or anchoring within an enforced segment of the safety zone, however, is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. All vessels desiring to enter a segment of a waterway in which this safety zone is being enforced must obtain permission from the Captain of the Port, Sector Lake

Michigan, to do so and must follow all orders from the Captain of the Port, Sector Lake Michigan, or his or her designated representative while in the zone.

Even during periods of enforcement, the Captain of the Port, Sector Lake Michigan, will make every effort to permit vessel entry into any enforced segment of the safety zone until on-scene preparations begin for aquatic nuisance species countermeasures. Once on-scene preparations begin and until clean-up is complete, however, no vessel, except those being used for aquatic nuisance species countermeasures or having permission from the Captain of the Port, Sector Lake Michigan, will be permitted to enter or remain in an enforced segment of the safety zone.

As the necessary clean up actions are completed, the Captain of the Port, Sector Lake Michigan, will begin to re-open segments of the waterways in an effort to minimize disruption or waterway use. As soon as the aquatic nuisance species eradication efforts are complete, the safety zone will no longer be enforced and the Captain of the Port, Sector Lake Michigan, will notify the public of such by all appropriate means. Such means of notification include, but are not limited, to Broadcast Notice to Mariners or Local Notice to Mariners.

The Captain of the Port, Sector Lake Michigan, maintains a live radio watch on VHF Channel 16 and a telephone line that is manned 24-hours a day, seven days a week. The public can obtain information concerning enforcement of the safety zone by contacting the Captain of the Port, Sector Lake Michigan, via the Coast Guard Sector Lake Michigan Command Center at 414-747-7182.

## Regulatory Analyses

We developed this temporary 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.

We expect the economic impact of this rule to be minimal. This determination is based the following: (1) While this rule will establish a

temporary safety zone that is 77 miles long, the Captain of the Port, Sector Lake Michigan, will have the authority to divide the safety zone into segments for enforcement purposes. The Captain of the Port, Sector Lake Michigan, will have the flexibility to enforce the safety zone in only the segments of the safety zone affected by the application of piscicide, targeted fishing operations, or other countermeasures to address the problem of aquatic nuisance species invasion; and (2) every effort will be made to reduce the closure time of the enforced segments of the safety zone immediately following the clean-up of the piscicide application.

Because such safety zones must be implemented immediately without a full notice and comment period, the full economic impact of this rule is difficult to determine at this time. The Coast Guard urges interested parties to submit comments that specifically address the economic impacts of waterway closures. Comments can be made online by going to <http://www.regulations.gov>, inserting USCG-2010-0166 in the "Keyword" box, and then clicking "Search." While this temporary interim rule is effective immediately, we may make changes to it based upon comments that we receive from the public.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this temporary interim 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.

This temporary interim rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. If you are a small entity and feel that this temporary interim rule would have a significant economic impact on your business, please submit a comment to the docket, explaining the impacts.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding the temporary interim 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 temporary interim rule or any policy or action of the Coast Guard.

### Collection of Information

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

### Federalism

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

### Environment

We have analyzed this temporary interim 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 that this action is one of the category of actions which do not individually or cumulatively have significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2 Figure 2-1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the establishing, disestablishing, or changing of a security or safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. The Coast Guard's environmental responsibilities extend only to the creation of a safety zone and do not include the application of piscicide or any other countermeasures to combat invasive species.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard temporarily 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. From May 11, 2010 until March 1, 2011, add § 165.T09-0166 to read as follows:

**§ 165.T09-0166 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.**

(a) *Location.* The following areas are a temporary safety zone:

(1) *Des Plaines River.* All U.S. waters of the Des Plaines River located between mile marker 286.0 (Brandon Road Lock and Dam) and mile marker 290.0 (point at which the Des Plaines River connects

with the Chicago Sanitary and Ship Canal).

(2) *Chicago Sanitary and Ship Canal.* All U.S. waters of the Chicago Sanitary and Ship Canal between mile marker 290.0 (point at which the Chicago Sanitary and Ship Canal connects to the Des Plaines River) and mile marker 321.8 (point at which the Chicago Sanitary and Ship Canal Connects to the South Branch Chicago River).

(3) *South Branch Chicago River.* All U.S. waters of the South Branch Chicago River between mile marker 321.8 (point at which the South Branch Chicago River connects to the Chicago Sanitary and Ship Canal) and mile marker 325.6 (point at which the South Branch Chicago River connects to the Chicago River (Main Branch) and North Branch Chicago River).

(4) *Chicago River (Main Branch).* All U.S. waters of the Chicago River (Main Branch) between mile marker 325.6 (point at which the Chicago River connects to the South Branch Chicago River) and 100 yards extending past the end of the Chicago River covering the area of the Federal channel within Chicago Harbor.

(5) *North Branch Chicago River.* All U.S. waters of the North Branch Chicago River between mile marker 325.6 (point at which the North Branch Chicago River connects to the Chicago River (Main Branch) and the South Branch Chicago River) and mile marker 331.4 (end of navigation channel).

(6) *Calumet-Saganashkee Channel.* All U.S. waters of the Calumet-Saganashkee Channel between mile marker 303.5 (point at which the Calumet-Saganashkee Channel connects to the Chicago Sanitary and Ship Canal) and mile marker 333.0; all U.S. waters of the Calumet-Saganashkee Channel between mile marker 333.0 and Lake Michigan (Calumet Harbor).

(b) *Effective Period.* This rule is effective in the CFR on May 11, 2010. This rule is effective with actual notice for purposes of enforcement on April 28, 2010. This rule will remain in effect until March 1, 2011.

(c) *Enforcement.*

(1) The Captain of the Port, Sector Lake Michigan, may enforce this safety zone in whole, in segments, or by any combination of segments. The Captain of the Port, Sector Lake Michigan, may suspend the enforcement of any segment of this safety zone for which notice of enforcement had been given.

(2) The safety zone established by this section will be enforced, pursuant to paragraph (c)(1) of this section, only upon notice by the Captain of the Port, Sector Lake Michigan. Suspension of any previously announced period of

enforcement will also be provided by the Captain of the Port, Sector Lake Michigan. All notices of enforcement and notices of suspension of enforcement will clearly describe any segments of the safety zone affected by the notice. At a minimum, notices of enforcement and notices of suspension of enforcement will identify any affected segments by reference to mile markers. When possible, the Captain of the Port, Sector Lake Michigan, will also identify enforced segments of this safety zone by referencing readily identifiable geographical points. In addition to providing the geographical bounds of any enforced segment of this safety zone, notices of enforcement and notices of suspension of enforcement will also provide the date(s) and time(s) at which enforcement will commence or suspend.

(3) The Captain of the Port, Sector Lake Michigan, will publish notices of enforcement and notices of suspension of enforcement in accordance with 33 CFR 165.7(a) and in a manner to provide as much notice to the public as possible. The primary method of notification will be through publication in the **Federal Register**. The Captain of the Port, Sector Lake Michigan, will also provide notice through other means, such as 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 email notifications.

(d) *Regulations.*

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

(2) The "designated representative" of the Captain of the Port, Sector Lake Michigan, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Lake Michigan, to act on his or her behalf. The designated representative of the Captain of the Port, Sector Lake Michigan, will be aboard a Coast Guard, Coast Guard Auxiliary, or other designated vessel or will be on shore and will communicate with vessels via VHF radio, loudhailer, or by phone. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF radio Channel 16 or the Coast Guard Sector Lake Michigan Command Center at 414-747-7182.

(3) To obtain permission to enter or operate within an enforced segment of the safety zone established by this section, Vessel operators must contact the Captain of the Port, Sector Lake Michigan, or his or her designated representative. Vessel operators given permission to operate in an enforced segment of the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(4) When a segment of the safety zone is being enforced, it will be closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. As soon as operations permit, the Captain of the Port, Sector Lake Michigan, will issue a notice of suspension of enforcement as specified in paragraph (c) of this section.

(5) All persons entering any enforced segment of the safety zone established in this section are advised that they do so at their own risk.

Dated: April 28, 2010.

**L. Barndt,**

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

[FR Doc. 2010-11083 Filed 5-10-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0168]  
RIN 1625-AA00

#### Safety Zone; Under Water Clean Up of Copper Canyon, Lake Havasu, AZ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of Lake Havasu in the Copper Canyon in support of the underwater cleanup of Copper Canyon. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this temporary safety zone unless authorized by the Captain of the Port or his designated representative.

**DATES:** This rule is effective from 7 a.m. through 11 a.m. on June 1, 2010.