

example, deletion 5p syndrome, also called cri du chat syndrome), or inborn metabolic disorders (for example, Tay-Sachs disease), we need evidence from an acceptable medical source that includes a clinical description of the diagnostic physical features of your impairment, and the report of the definitive laboratory study (for example, genetic analysis or evidence of biochemical abnormalities) that is diagnostic of your impairment. When we do not have the actual laboratory report, we need evidence from an acceptable medical source that is persuasive that a positive diagnosis was confirmed by appropriate laboratory analysis at some time prior to our evaluation. To be persuasive, the report must state that the appropriate definitive laboratory study was conducted and that the results confirmed the diagnosis. The report must be consistent with other evidence in your case record.

b. *Other disorders.* For infants born with other kinds of catastrophic congenital abnormalities (for example, anencephaly, cyclopia), we need evidence from an acceptable medical source that includes a clinical description of the diagnostic physical features of the impairment.

*C. How Do We Evaluate Impairments That Affect Multiple Body Systems and That Do Not Meet the Criteria of the Listings in This Body System?*

1. These listings are examples of impairments that commonly affect multiple body systems and that we consider significant enough to result in marked and severe functional limitations. If your severe impairment(s) does not meet the criteria of any of these listings, we must also consider whether your impairment(s) meets the criteria of a listing in another body system.

2. There are many other impairments that can cause deviation from, or interruption of, the normal function of the body or interfere with development; for example, congenital anomalies, chromosomal disorders, dysmorphic syndromes, metabolic disorders, and perinatal infectious diseases. In these impairments, the degree of deviation or interruption may vary widely from child to child. Therefore, the resulting functional limitations and the progression of those limitations are more variable than with the catastrophic congenital abnormalities and diseases we include in these listings. For this reason, we evaluate the specific effects of these impairments on you under the listing criteria in any affected body system(s) on an individual case basis. Examples of such impairments include, but are not limited to, triple X syndrome (XXX syndrome), fragile X syndrome, phenylketonuria (PKU), caudal regression syndrome, and fetal alcohol syndrome.

3. If you have a severe medically determinable impairment(s) that does not meet a listing, we will consider whether your impairment(s) medically equals a listing. If your impairment(s) does not meet or medically equal a listing, we will consider whether it functionally equals the listings. (See §§ 404.1526, 416.926, and 416.926a.) When we decide whether you continue to be disabled, we use the rules in § 416.994a.

**110.01 Category of Impairments, Impairments That Affect Multiple Body Systems**

110.06 *Non-mosaic Down syndrome*, established as described in 110.00B.

110.08 *A catastrophic congenital abnormality or disease*, established as described in 110.00B, and:

A. Death usually is expected within the first months of life, and the rare individuals who survive longer are profoundly impaired (for example, anencephaly, trisomy 13 or 18, cyclopia);

or

B. That interferes very seriously with development; for example, cri du chat syndrome (deletion 5p syndrome) or Tay-Sachs disease (acute infantile form).

\* \* \* \* \*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD09-05-118]

RIN 1625-AA00

**Safety Zone; Northerly Island, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Stormwater Conveyance System Construction Project located off of Northerly Island, Lake Michigan, Chicago, IL. The safety zone is necessary to protect vessels and persons from potential hazards during the initial tunneling phase of the project. This phase will involve extensive blasting operations. This safety zone is intended to restrict vessels from a portion of Lake Michigan in Chicago, IL.

**DATES:** This rule is effective from 8 a.m. (local) on August 22, 2005 until 8 a.m. (local) on October 22, 2005. Captain of the Port Lake Michigan or the on scene Patrol Commander may terminate this event at anytime.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of the docket (CGD09-05-118), and are available for inspection or copying at Commanding Officer, U.S. Coast Guard Marine Safety Unit Chicago, 215 W. 83rd Street Suite D, Burr Ridge, IL, 60527, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Cameron Land, U.S. Coast Guard

Marine Safety Unit Chicago, at (630) 986-2155.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This safety zone is temporary in nature and limited time existed for an NPRM. The Coast Guard was not made aware that this event was to take place with sufficient time to allow for publication of an NPRM followed by a final rule. 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**. Delaying this rule would be impracticable and immediate action is necessary to ensure the safety of personnel and vessels during the operational period. During the enforcement of this safety zone, comments will be accepted and reviewed and may result in a modification to the rule.

**Background and Purpose**

A temporary safety zone is necessary to ensure the safety of vessels and persons from the hazards associated with a construction project on a navigable waterway. The Captain of the Port Lake Michigan has determined this project in close proximity to watercraft (Burnham Harbor) pose significant risks to public safety and property. Blasting operations in close proximity to the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the blasting site will help ensure the safety of persons and property and minimize the associated risks. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated On-Scene Representative via VHF radio Channel 16.

**Discussion of Rule**

The safety zone will encompass all waters of Lake Michigan bounded by the arc of a circle with a radius of 150-feet with its center at the shoreline of Northerly Island in the approximate position 41°51'12" N, 087°36'30" W. These coordinates are based upon North American Datum 1983 (NAD 1983). The size of this zone was determined using the safety guidelines and safety plan provided by the construction contractor and local knowledge concerning wind, waves, and currents. All commercial and recreational vessels must contact

the Coast Guard Patrol Commander via VHF-FM Channel 16 to request permission to transit through the safety zone.

### 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. The Office of Management and Budget has not reviewed it 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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This finding is based on the relatively small percentage of vessels that would fall within the applicability of the regulation, the relatively small size of the limited area around the zone, the minimal amount of time that vessels will be restricted when the zone is being enforced. In addition, vessels that will need to enter the zone may request permission on a case-by-case basis from the Captain of the Port or the designated on-scene representative.

### 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 may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit through the safety zone in and around the area.

This proposed rule would not have a significant impact on a substantial number of small entities because the restrictions affect only a limited area for a short duration. Further, transit through the zone may be permitted with proper authorization from the Captain of the Port Lake Michigan or his designated representative. Additionally, the opportunity to engage in

recreational activities outside the limits of the safety zone will not be disrupted.

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 offered to assist small entities in understanding the rule so that they could 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 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 1–800–734–3247.

### 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), of the Instruction, from further environmental documentation. This safety zone fits paragraph 34(g) because it establishes a safety zone.

A preliminary “Environmental Analysis Check List” is 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 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.T09.118 to read as follows:

#### § 165.T09.118 Safety Zone; Northerly Island, Chicago, IL

(a) *Location.* The following is a safety zone: all waters of Lake Michigan bounded by the arc of a circle with a radius of 150-feet with its center at the shoreline of Northerly Island in the approximate position 41°51'12" N, 087°36'30" W (NAD 1983).

(b) *Effective time and date.* This rule is effective from 8 a.m. (local) August

22, 2005 until 8 a.m. (local) on October 22, 2005.

(c) *Regulations.* In accordance with § 165.23, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Lake Michigan, or the designated On-Scene Representative. Section 165.23 also contains other general requirements.

Dated: August 18, 2005.

**H.M. Hamilton,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

**CGD09–05–108**

**RIN 1625–AA00**

#### Safety Zone; Celebrate Baldwinsville Fireworks, Baldwinsville, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of the Seneca River. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. This safety zone is intended to restrict vessel traffic from a portion of the Seneca River, New York.

**DATES:** This rule is effective from 10 p.m. (local) until 10:30 p.m. (local) on September 17, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD09–05–108 and will be available for inspection or copying at: U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Tracy Wirth, U. S. Coast Guard Sector Buffalo, at (716) 843–9573.

**SUPPLEMENTARY INFORMATION:**

#### Background and Purpose

Pursuant to 5 U.S.C. 553, a notice of rulemaking (NPRM) has not been published for this regulation and good cause exists for making it effective without publication of an NPRM in the **Federal Register**. Publishing a NPRM would be contrary to public interest

since immediate action is necessary to ensure the safety of vessels and persons that transit in the vicinity of the Tacoma Narrows Bridge. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event.

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Buffalo has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the locations of the launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

#### Discussion of Rule

The safety zone consists of all navigable waters of the Seneca River within 800 foot radius of the fireworks barge moored/anchored in approximate position 43°09'27" N, 076°20'25" W. All Geographic coordinates are North American Datum of 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

The Coast Guard believes this regulation will not pose any new problems for commercial vessels transiting the area. In the unlikely event that shipping is affected by this regulation, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone.

#### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 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 this rule under that order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph