

## Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1, and 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g).

2. Revise § 117.337 as follows:

### § 117.337 Trout River.

The draw of the CSX Railroad Bridge across the Trout River, mile 0.9 at Jacksonville, operates as follows:

The bridge is not tender.

(a) The draw is normally in the fully open position, displaying green lights to indicate that vessels may pass.

(b) As a train approaches, provided the scanners do not detect a vessel under the draw, the lights change to flashing red and a horn continuously sounds while the draw closes. The draw remains closed until the train passes.

(c) After the train clears the bridge, the lights continue to flash red and the horn again continuously sounds while the draw opens, until the draw is fully open and the lights return to green.

Dated: May 12, 2009.

**R.S. Branham,**

*Rear Admiral, U.S. Coast Guard Commander,  
Seventh Coast Guard District.*

[FR Doc. E9-12979 Filed 6-3-09; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0342]

RIN 1625-AA00

### Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend 33 CFR Part 165 to amend the rules that restrict vessels from portions of water areas during events that pose a hazard to public safety. The safety zones proposed in this rulemaking are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays, air shows, and other events.

**DATES:** Comments and related materials must reach the Coast Guard on or before July 6, 2009.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2009-0342 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *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.

(3) *Hand Delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call BM2 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747-7154. 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-2009-0342), 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 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>, select the Advanced Docket Search option on the right side of the screen, insert “USCG-2009-0342” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your 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 the 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>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2009-0342 in the Docket ID box, press Enter, and then click on the item in the Docket ID 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 to the Docket Management Facility at the address under **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

This rule proposes the amendment of regulations in § 165.929, Annual Events requiring safety zones in the Captain of the Port Lake Michigan zone. This rule proposes the removal of three events that do not require establishment of a safety zone; revising the location of three safety zones, revising the enforcement date and time of two safety zones; and the addition of three recurring safety zones. These safety zones are necessary to protect vessels and people from the hazards associated with fireworks displays. Such hazards include obstructions to the waterway that may cause marine casualties and the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm.

#### Discussion of Proposed Rule

The proposed rule and associated safety zones are necessary to ensure the safety of vessels and people during events in the Captain of the Port Lake Michigan area of responsibility that may pose a hazard to the public. The proposed safety zones will be enforced only immediately before and during events that pose a hazard to the public. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners or Local Notice to Mariners.

#### Regulatory Evaluation

This proposed 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.

The Coast Guard's use of these safety zones will be periodic in nature, of short duration, and designed to minimize the impact on navigable waters. These safety zones will only be enforced immediately before and during the time the events are occurring. Furthermore, these safety zones have been designed to allow vessels to transit unrestricted to portions of the waterways not affected by the safety zones. The Coast Guard expects insignificant adverse impact to mariners from the activation of these safety zones.

#### 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in the areas designated as safety zones during the dates and times the safety zones are being enforced. These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zones in this proposed rule would be in effect for short periods of time and only once per year. The safety zones have been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through the zones with the permission of the Captain of the Port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact BM2 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7154. 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 proposed 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 proposed 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule will not effect the 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these safety zones and fishing rights protection need not be incompatible. We have also determined that this Proposed 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Proposed Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

## Energy Effects

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 023–01, which guide 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 this action is not likely to have a significant effect on the human environment. A preliminary environmental analysis check list supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

## 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, 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. In § 165.929 make the following amendments:

a. In paragraph (a)(4), revise paragraph (ii).

b. In paragraph (a)(11), revise paragraph (i).

c. In paragraph (a)(15), revise paragraph (ii).

d. In paragraph (a)(26), revise paragraph (i).

e. In paragraph (a), revise paragraph (33).

f. In paragraph (a), remove and reserve paragraph (37).

g. In paragraph (a), revise paragraph (38).

h. In paragraph (a)(49), revise paragraph (i).

i. In paragraph (a), add paragraph (67). The amendments read as follows:

## § 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone.

(a) \* \* \*

(4) \* \* \*

(ii) *Enforcement date and time.* The second Saturday of May; 8 a.m. to 5 p.m.

\* \* \* \* \*

(11) \* \* \*

(i) *Location.* All waters of the Grand River within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 43°04'24" N, 086°12'17" W (NAD 83).

\* \* \* \* \*

(15) \* \* \*

(i) \* \* \*

(ii) *Enforcement date and time.* July 3; 9 p.m. to 11 p.m., July 4; 9 p.m. to 11 p.m., and July 5; 9 p.m. to 11 p.m.

\* \* \* \* \*

(26) \* \* \*

(i) *Location.* All waters of Muskegon Lake within the arc of a circle with a 1,000-foot radius from a fireworks launch site located on a barge in position 43°14'13" N, 086°15'54" W (NAD 83).

\* \* \* \* \*

(33) *New Buffalo Independence Day Fireworks; New Buffalo, IN.*

(i) *Location.* All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 41°48'09" N, 086°44'49" W (NAD 83).

(ii) *Enforcement date and time.* The first Friday after July 4; 9 p.m. to 11 p.m.

\* \* \* \* \*

(37) [Reserved]

(38) *Gills Rock July 4th Fireworks; Gills Rock, WI.*

(i) *Location.* All waters of Green Bay, in the vicinity of Hedgehog Harbor, within the arc of a circle with a 800-foot radius from the fireworks launch site located on a in position 45°17'20" N, 087°01'32" W (NAD 83).

(ii) *Enforcement date and time.* July 4; 9 p.m. to 11 p.m. If the July 4 fireworks

are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

\* \* \* \*

(49) \* \* \*

(i) *Location.* All waters of Muskegon Lake within the arc of a circle with a 1,000-foot radius from a fireworks barge located in position 43°14'13" N, 086°15'54" W (NAD 83).

\* \* \* \*

(67) *Sister Bay Marina Fest Fireworks; Sister Bay, WI.*

(i) *Location.* All waters of Green Bay, in the vicinity of Sister Bay, within the arc of a circle with a 800-foot radius from the fireworks launch site located on a boat in position 45°11'30" N, 087°07'20" W (NAD 83).

(ii) *Enforcement date and time.* The Saturday prior to Labor Day; 9 p.m. to 11 p.m.

\* \* \* \*

Dated: May 7, 2009.

**Bruce C. Jones,**

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

[FR Doc. E9-12985 Filed 6-3-09; 8:45 am]

**BILLING CODE 4910-15-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09-1126; MB Docket No. 08-117; RM-11450]

#### Television Broadcasting Services; St. Paul, MN

**AGENCY:** Federal Communications Commission.

**ACTION:** Dismissal.

**SUMMARY:** The Commission dismisses the pending rulemaking petition filed by Twin Cities Public Television, Inc. ("Twin Cities"), the licensee of noncommercial educational station KTCI-TV, analog channel \*17 and KTCI-DT, pre-transition digital channel \*16, and permittee of post-transition digital channel \*26, St. Paul, Minnesota, to substitute digital channel \*38 for its assigned post-transition digital channel \*26. Duluth-Superior Area Educational Television Corporation ("Duluth-Superior"), the licensee of noncommercial educational station WDSE-TV/DT, Duluth, Minnesota, filed comments and a counterproposal in the proceeding. Twin Cities and Duluth-Superior subsequently came to a Commission approved agreement by which Duluth-Superior agreed to withdraw its counterproposal and Twin

Cities agreed to request a different post-transition digital channel substitution.

#### FOR FURTHER INFORMATION CONTACT:

Joyce L. Bernstein, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Order*, MB Docket No. 08-117, adopted May 18, 2009, and released May 22, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this *Order* to the Government Accountability Office, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) since this proposed rule is dismissed, herein.)

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E9-13052 Filed 6-3-09; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09-1125; MB Docket No. 09-71; RM-11533]

#### Television Broadcasting Services; St. Paul, MN

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a channel substitution proposed by Twin Cities Public Television, Inc. ("Twin Cities"), the licensee of noncommercial educational station KTCI-TV, analog channel \*17 and KTCI-DT, pre-transition digital channel \*16, and permittee of post-transition digital channel \*26, St. Paul, Minnesota. Twin Cities requests the substitution of digital channel \*23 for its assigned post-transition digital channel \*26 at St. Paul.

**DATES:** Comments must be filed on or before June 19, 2009, and reply comments on or before June 29, 2009.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Lawrence Miller, Esq., Schwartz, Woods & Miller, Suite 610, The Lion Building, 1233 20th Street, NW., Washington, DC 20036-7322.

#### FOR FURTHER INFORMATION CONTACT:

Joyce L. Bernstein, [joyce.bernstein@fcc.gov](mailto:joyce.bernstein@fcc.gov), Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 09-71, adopted May 18, 2009, and released May 22, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio