

Dated: June 10, 2024.

Keith M. Donohue,

Captain, U.S. Coast Guard, Captain of the Port Sector Houston-Galveston.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2024-0519]

RIN 1625-AA00

#### Safety Zone; Trenton DTE Boiler Demolition, Trenton, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 1,000 foot radius of the Trenton DTE boiler. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by boiler demolition. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit.

**DATES:** This rule is in effective from 5:45 a.m. on June 21, 2024, through 8 a.m. on June 22, 2024. The safety zone will be enforced from 5:45 a.m. through 8 a.m. on June 21, 2024. In the case of inclement weather on June 21, 2024, this safety zone will be enforced from 5:45 a.m. through 8 a.m. on June 22, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0519 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Tracy Girard, Waterways Management, CG Sector Detroit, Coast Guard; telephone (571) 607-7807-6044, email [Tracy.m.girard@uscg.mil](mailto:Tracy.m.girard@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port Detroit  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

#### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the party conducting the work notified the Coast Guard with insufficient time to accommodate a comment period. It is impracticable to publish an NPRM because we must establish this safety zone by June 21, 2024 in order to protect the public with the hazards associated with this demolition project.

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 the effective date of this rule would be impracticable because prompt action is needed in order to protect the public with the hazards associated with this demolition project.

#### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Detroit (COTP) has determined that potential hazards associated with the boiler demolition occurring between June 21 and June 22, will be a safety concern for anyone transiting near the Trenton DTE Power plant on the Detroit River. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the boiler is being demolished.

#### IV. Discussion of the Rule

This rule is in effective from 5:45 a.m. on June 21, 2024, through 8 a.m. on June 22, 2024. The safety zone will be enforced from 5:45 a.m. through 8 a.m. on June 21, 2024. In the case of inclement weather on June 21, 2024, this safety zone will be enforced from 5:45 a.m. through 8 a.m. on June 22, 2024.

The safety zone will cover all navigable waters a 1,000 foot radius of the Trenton DTE Boilers. The duration of the safety zone is intended to protect personnel, vessels, and the marine

environment in these navigable waters while the boilers are being demolished. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

#### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, duration, and time-of-day of the safety zone.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

#### E. 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.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry into the waters of 1,000 foot radius of the Trenton DTE boilers while it is demolished. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 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 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:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T09-0519 to read as follows:

#### § 165.T09-0519 Safety Zone; Trenton DTE Boiler Demolition Detroit River, Trenton, MI.

(a) *Location.* The following area is a safety zone: The safety zone will cover all navigable waters within a 1,000 foot radius of the Trenton DTE Boilers located at 42°07.273' N 83°10.750' W.

All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting or anchoring within the safety zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Detroit, or his or her designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated representative.

(3) The "designated representative" of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on his behalf. The designated representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit or his designated representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his designated representative to obtain permission to do so at least 30 minutes prior to transit. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Detroit or his designated representative.

(c) *Enforcement periods.* This section This rule is in effective from 5:45 a.m. on June 21, 2024, through 8 a.m. on June 22, 2024. The safety zone will be enforced from 5:45 a.m. through 8 a.m. on June 21, 2024. In the case of inclement weather on June 21, 2024, this safety zone will be enforced from 5:45 a.m. through 8 a.m. on June 22, 2024.

Dated: June 10, 2024.

**Richard P. Armstrong,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2024-0366]

RIN 1625-AA00

**Safety Zone; Upper Mississippi River, Prairie du Chien, WI**

**AGENCY:** Coast Guard, DHS.