

Signed at Washington, D.C., this 2nd day of October, 1995.

Joseph A. Dear,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as set forth below:

PART 1910—[AMENDED]

1. The authority citation for Subpart Z of Part 1910 continues to read as follows:

Authority: Secs. 6, 8 Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 1-90 (55 FR 9033), as applicable; and 29 CFR Part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, except those substances which have exposure limits listed in Tables Z-1, Z-2, and Z-3 of 29 CFR 1910.1000. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000 Tables Z-1, Z-2, Z-3 also issued under 5 U.S.C. 553. Section 1910.1000, Table Z-1, Z-2, and Z-3 not issued under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, and cotton dust listings.

Section 1910.1001 also issued under Sec. 107 of Contract Work Hours and Safety Standards Act, 40 U.S.C. 333 and 5 U.S.C. 553.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR Part 1911; also issued under 5 U.S.C. 553.

Section 1910.1003 through 1910.1018 also issued under 29 U.S.C. 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 553.

Section 1910.1028 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under 29 U.S.C. 653.

Section 1910.1043 also issued under 5 U.S.C. 551 et seq.

Sections 1910.1045 and 1910.1047 also issued under 29 U.S.C. 653.

Section 1910.1048 also issued under 29 U.S.C. 653.

Sections 1910.1200, 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

Section 1910.1450 is also issued under secs. 6(b), 8(c) and 8(g)(2), Pub. L. 91-596, 84 Stat. 1593, 1955, 1600; 29 U.S.C. 655, 657.

2. Section 1910.1025 is amended by revising Table I in paragraph (e)(1)(ii), and paragraphs (f)(1)(i), (j)(2)(ii), and (k)(1)(i);

3. By removing paragraph (e)(4) and redesignating paragraphs (e)(5) and (6) as paragraphs (e)(4) and (5);

4. By removing paragraphs (k)(1)(i)(A) and (B) and redesignating paragraphs (k)(1)(i)(C) and (D) as (k)(1)(i)(A) and (B); and

5. By removing paragraphs (k)(1)(iii)(A)(1) and (2), and redesignating paragraphs (k)(1)(iii)(A)(3) and (4) as paragraphs (k)(1)(iii)(A)(1) and (2).

§ 1910.1025 Lead.

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(e) *Methods of compliance*—(1) *Engineering and work practice controls.* (ii) * * *

TABLE I

Industry	Compliance dates: ¹ (50 µg/m ³)
Lead chemicals, secondary copper smelting.	July 19, 1996.
Nonferrous foundries	July 19, 1996. ²
Brass and bronze ingot manufacture.	6 years. ³

¹ Calculated by counting from the date the stay on implementation of paragraph (e)(1) was lifted by the U.S. Court of Appeals for the District of Columbia, the number of years specified in the 1978 lead standard and subsequent amendments for compliance with the PEL of 50 µg/m³ for exposure to airborne concentrations of lead levels for the particular industry.

² Large nonferrous foundries (20 or more employees) are required to achieve the PEL of 50 µg/m³ by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees) are required to achieve an 8-hour TWA of 75 µg/m³ by such controls.

³ Expressed as the number of years from the date on which the Court lifts the stay on the implementation of paragraph (e)(1) for this industry for employers to achieve a lead in air concentration of 75 µg/m³. Compliance with paragraph (e) in this industry is determined by a compliance directive that incorporates elements from the settlement agreement between OSHA and representatives of the industry.

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(f) *Respiratory protection.*

(1) * * *

(i) During the time period necessary to install and implement engineering or work practice controls.

* * * * *

(j) * * *

(2) * * *

(ii) *Follow-up blood sampling tests.*

Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i)(A) of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

* * * * *

(k) * * *

(1) * * *

(i) *Temporary removal due to elevated blood lead levels.* (A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to

this section indicate that the employee's blood lead level is at or above 60 µg/100 g of whole blood; and

(B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer) indicates that the employee's blood lead level is at or above 50 µg/100 g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 µg/100 g of whole blood.

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6. In § 1910.1025, Appendix B is amended as follows:

Section XV, For Additional Information, Part A, and item 9 are revised and new items 10 through 14 are added to read as follows:

* * * * *

XV. * * *

A. Copies of the Standard and explanatory material may be obtained by writing or calling the OSHA Docket Office, U.S. Department of Labor, room N2634, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone: (202) 219-7894.

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9. Revision to the standard and an additional appendix (Appendix D), **Federal Register**, Vol. 47, pp. 51117-51119, November 12, 1982.

10. Notice of reopening of lead rulemaking for nine remand industry sectors, **Federal Register**, vol. 53, pp. 11511-11513, April 7, 1988.

11. Statement of reasons, **Federal Register**, vol. 54, pp. 29142-29275, July 11, 1989.

12. Statement of reasons, **Federal Register**, vol. 55, pp. 3146-3167, January 30, 1990.

13. Correction to appendix B, **Federal Register**, vol. 55, pp. 4998-4999, February 13, 1991.

14. Correction to appendices, **Federal Register**, vol. 56, p. 24686, May 31, 1991.

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7. Appendix C to § 1910.1025, Section I. Medical Surveillance and Monitoring Requirements for Workers Exposed to Inorganic Lead, is amended as follows:

a. In the last sentence of the second paragraph, the words "A zinc protoporphyrin (ZPP) measurement is strongly recommended . . ." are revised to read "A zinc protoporphyrin (ZPP) is required . . ."

b. In Table 2, item B, the words "(ZPP is also strongly recommended . . ." are revised to read "(ZPP is also required . . ."

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[FR Doc. 95-25067 Filed 10-10-95; 8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS JOHN C. STENNIS (CVN 74) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 21, 1995.

FOR FURTHER INFORMATION CONTACT:

Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION:

Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS JOHN C. STENNIS (CVN 74) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(a), pertaining to the placement of the masthead lights over the fore and aft centerline of the ship; Annex I, paragraph 2(g), pertaining to the placement of the sidelights above the hull; and Annex I, paragraph 3(a), pertaining to the placement of the

forward masthead light in the forward quarter of the ship. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Two of § 706.2 is amended by adding the following entry:

TABLE TWO

Vessel	Number	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance in-board of ship's sides in meters; § 3(b), Annex I
USS JOHN C. STENNIS ..	CVN-74	30.0	.....	.....	.....	.....	0.6	.....	.....

3. Table Five of § 706.2 is amended by adding the following entry:

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light, annex I, sec. 3(a)	Percentage horizontal separation attained
USS JOHN C. STENNIS	CVN 74	.....	X	.....	.....

Dated: September 21, 1995.

C.E. Schaff,

LCDR, JAGC, U.S. Navy, Acting Deputy Assistant Judge Advocate General (Admiralty).

Dated: September 26, 1995.

M.D. Schetzle,

LT, JAGC, USNR, Alternate Federal Register Certifying Officer.

[FR Doc. 95-25136 Filed 10-10-95; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09-95-026]

Safety Zones; USX Superfund Site on the St. Louis River

AGENCY: Coast Guard, DOT.

ACTION: Final rule; request for comments.

SUMMARY: The Coast Guard is establishing two safety zones in segments of the St. Louis River near Duluth, Minnesota, in areas which are part of the USX Superfund Site, in order to protect the public from the effects of contaminated sediments at that site. Navigation of vessels through the zones is prohibited. Swimming and fishing are prohibited within the zones. Although this regulation is being made effective immediately in order to protect public health, the public is invited to comment on this action and the Coast Guard will consider changes in this action in response to any comments received.

DATES: This rule is effective on August 31, 1995. Comments on this rule must be received on or before December 15, 1995.

ADDRESSES: Comments and supporting materials should be mailed or delivered to Lieutenant (junior grade) Anthony Beatrez, U.S. Coast Guard Marine Safety Office, 600 S. Lake Ave., Canal Park, Duluth, MN 55802. Please reference the name of the proposal and the docket number in the heading above. If you wish receipt of your mailed comments to be acknowledged, please include a stamped, self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9 a.m. to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Anthony Beatrez, U.S. Coast Guard Marine Safety Office, 600 S. Lake Ave., Canal Park, Duluth, MN 55802, (218) 720-5286.

SUPPLEMENTARY INFORMATION:

Immediate Effect of Regulation

In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been contrary to the public interest because the existence of contaminated sediments at this site constitutes an immediate danger to the health of any person swimming in the area or consuming fish from the area. In addition, it is expected that creation of these limited safety zones will have minimal effects on public use of the waterway.

Request for Comments

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable in order to insure that the regulation is both reasonable and workable. Accordingly, the Coast Guard encourages interested persons to participate in this rulemaking by submitting comments which may consist of data, views, arguments, or proposals for amendments to the proposed regulations. The Coast Guard does not currently plan to have a public hearing. However, consideration will be given to holding a public hearing if it is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would substantially contribute to this rulemaking and there is sufficient time to publish a notice, the Coast Guard will announce such a hearing by a later notice in the **Federal Register**.

Background and Purpose

The USX Superfund Clean-up Site is a 640-acre site located about five miles southwest of the Duluth central business district. The St. Louis River runs along the east and south sides of the site; the river empties into Lake Superior about eight miles downstream of the site. The Duluth subdivisions of Gary and New Duluth are located to the southwest of the site; the subdivisions of Morgan Park and Smithville are immediately adjacent to the site to the north and northwest, respectively. U.S. Steel and Duluth Works operated a large integrated steel mill on the site from about 1915 until 1979. Operations included coke and iron production, open hearth steel production, wire rolling, and wire milling. Although the Duluth Works operation closed in 1979,

the Hallett Co. continued to operate a wire mill on the site until 1987. Soil, sediments, surface water, and ground water at the site are contaminated with coke and tar products which contain high concentrations of polycyclic aromatic hydrocarbons (PAHs). Sediments also contain elevated levels of heavy metals. PAHs include phenanthrene, acenaphthene, and fluoranthene. The Minnesota Department of Health (MDH) has determined that the site is a public health concern from possible exposure to hazardous substances via dermal contact, ingestion, or inhalation of contaminated soil or sediments. Therefore, based on advice from MDH, the Coast Guard Captain of the Port in Duluth has determined that swimming or fishing in the designated areas is unsafe. In addition, to prevent agitation of the bottom and further spreading of contaminated sediments, vessel traffic through the areas is prohibited.

Drafting Information

The drafters of this regulation are Lieutenant (junior grade) Anthony Beatrez, U.S. Coast Guard Marine Safety Office, Duluth, and Commander Eric Reeves, Chief, Port & Environmental Safety Branch, Ninth Coast Guard District.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation, and has so certified in the docket file. This regulatory action is being taken to protect the public from the danger posed by contamination at the site and is designed to limit the existing threat to the environment.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This routine use of traditional and well-recognized Coast Guard authority over the navigable waters is being taken on the advice of, and in consultation with, the Minnesota Department of Health.

Regulatory Evaluation

This regulation is considered to be nonsignificant under Executive Order 12866 on Regulatory Planning and Review and nonsignificant under