

U.S.C. 2717(a)(6). The rate of fees is established annually by the Commission and is payable on a quarterly basis. 25 U.S.C. 2717(a)(3). IGRA limits the total amount of fees imposed during any fiscal year to .08 percent of the gross gaming revenues of all gaming operations subject to regulation under IGRA. Failure of a gaming operation to pay the fees imposed by the Commission's fee schedule can be grounds for a civil enforcement action. 25 U.S.C. 2713(a)(1). The purpose of part 514 is to establish how the NIGC sets and collects those fees, to establish a basic formula for tribes to utilize in calculating the amount of fees to pay, and to advise tribes of the potential consequences for failure to pay the fees.

On February 2, 2012, the Commission published a final rule amending part 514 to provide for the submittal of fees and fee worksheets on a quarterly basis rather than bi-annually; to provide for operations to calculate fees based on the gaming operation's fiscal year rather than a calendar year; to amend certain language in the regulation to better reflect industry usage; to establish an assessment for fees submitted 1–90 days late; and to establish a fingerprinting fee payment process. 77 FR 5178, Feb. 2, 2012. In its final rule, the Commission also provided tribes with rights to appeal proposed late fee assessments in accordance with 25 CFR part 577.

On September 25, 2012, the Commission published a final rule consolidating all appeal proceedings before the Commission into a new subchapter H (Appeal Proceedings Before the Commission), thereby removing former parts 524, 539, and 577. 77 FR 58941, Sept. 25, 2012. Thus, any reference in part 514 to appeal rights in former part 577 is obsolete and must be revised to reference the new subchapter H.

## Regulatory Matters

### Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

### Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in

costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

### Unfunded Mandates Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

### Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

### Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

### National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

### Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget as required by 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 3141–0007. The OMB control number expires on November 30, 2015.

### Text of the Rules

For the reasons discussed in the Preamble, the Commission amends its regulations at 25 CFR part 514 as follows:

#### PART 514—FEES

■ 1. The authority citation for part 514 continues to read as follows:

**Authority:** 25 U.S.C. 2706, 2710, 2710, 2717, 2717a.

■ 2. In part 514, revise all references to “part 577” to read “subchapter H”.

Dated: January 14, 2013.

**Tracie L. Stevens,**  
*Chairwoman.*

**Daniel J. Little,**  
*Associate Commissioner.*

[FR Doc. 2013–00942 Filed 1–22–13; 8:45 am]

BILLING CODE 7565–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 162

[Docket No. USCG–2012–0952]

RIN 1625–AB95

### Inland Waterways Navigation Regulation: Sacramento River, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** By this direct final rule, the Coast Guard is removing the Decker Island restricted anchorage area in the Sacramento River. The restricted anchorage area was needed in the past to prevent non-government vessels from transiting through or anchoring in the United States Army's tug and barge anchorage zones. The United States Army relinquished control of the island in 1975, and the restricted anchorage area is no longer necessary.

**DATES:** This rule is effective April 23, 2013, unless an adverse comment, or notice of intent to submit an adverse comment, is either submitted to our online docket via <http://www.regulations.gov> on or before March 25, 2013 or reaches the Docket Management Facility by that date. If an adverse comment, or notice of intent to submit an adverse comment, is received by March 25, 2013, we will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0952 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, email or call Lieutenant Lucas Mancini, Coast Guard District Eleven; telephone 510–437–3801, email [Lucas.W.Mancini@uscg.mil](mailto:Lucas.W.Mancini@uscg.mil). 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:**

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**I. 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.

**A. Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0952), 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, or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone

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> and type “USCG–2012–0952” in the “Search” box and click “Search.” On the line for this docket, click “Comment.” 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 them 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.

**B. 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>, type “USCG–2012–0952” and click “Search.” If you do not have access to the Internet, you may also view the docket online by visiting 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.

**C. 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).

**D. Public Meeting**

We do not now plan to hold a public meeting. But, you may submit a request for a public meeting to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**II. Regulatory Information**

We are publishing this direct final rule under 33 CFR 1.05–55 because we do not expect an adverse comment on removal of this unused anchorage. This rule would remove a restriction that is

not currently needed or enforced. If no adverse comment or notice of intent to submit an adverse comment is received by March 25, 2013, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, we will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if we receive an adverse comment or notice of intent to submit an adverse comment, we will publish a document in the **Federal Register** announcing the withdrawal of all or part of this direct final rule. If an adverse comment applies only to part of this rule (e.g., to an amendment, a paragraph, or a section) and it is possible to remove that part without defeating the purpose of this rule, we may adopt, as final, those parts of this rule on which no adverse comment was received. We will withdraw the part of this rule that was the subject of an adverse comment. If we decide to proceed with a rulemaking following receipt of an adverse comment, we will publish a separate notice of proposed rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered “adverse” if the comment explains why this rule or a part of this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

**III. Basis and Purpose**

The purpose of this rule is to remove 33 CFR 162.205(c) because the restricted anchorage described in that paragraph has not been needed or enforced since the United States Army vacated Decker Island in 1975. The authority to conduct this rulemaking is found in 33 U.S.C. 1231.

**IV. Discussion of the Rule**

Prior to 1953 the United States Army acquired 114.02 acres of Decker Island. The Army used the land for boat landing and storage activities. The purpose of 33 CFR 162.205(c) was to keep vessels and other craft not associated with the United States government from navigating or anchoring within 50 feet of any moored government vessel in the area. In 1974 the United States Army began to vacate Decker Island, officially terminating its lease in January of 1975. With the Army’s release of the 114.02 acres of Decker Island the intended use of the restricted anchorage was no longer needed. We believe that no member of the public will be adversely affected by

removal of the restriction. This rule will update the inland waterways navigation regulations by removing the Decker Island restricted anchorage.

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

### A. 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. For the reasons stated in section IV., “Discussion of the Rule,” this rule does not impose any additional costs on the public or government.

### B. Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. However, when an agency is not required to publish an NPRM for a rule, the RFA does not require an agency to prepare a regulatory flexibility analysis. The Coast Guard was not required to publish an NPRM for this rule for the reasons stated in section II., “Regulatory Information,” and therefore is not required to publish a regulatory flexibility analysis.

### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult Lieutenant Lucas Mancini via the **ADDRESSES** section of the rule. 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.

### D. 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).

### E. Federalism

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 does not have implications for federalism.

### F. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### G. Taking of Private Property

This 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.

### H. 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.

### I. 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.

### J. 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.

### K. 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.

### L. 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. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### M. Environment

We have analyzed this 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 a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(f) of the Instruction. This rule involves removal of the restricted anchorage area at Decker Island in the Sacramento River. Under figure 2–1, paragraph (34)(f) of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

### List of Subjects in 33 CFR Part 162

Navigation (water) and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 162 as follows:

### PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

■ 1. The authority citation for part 162 continues to read as follows:

**Authority:** 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 162.205, remove paragraph (c) consisting of the paragraph heading and paragraphs (c)(1) and (c)(2).

Dated: January 13, 2013.

**K.L. Schultz,**

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

[FR Doc. 2013-01238 Filed 1-22-13; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[USCG-2013-0019

RIN 1625-AA11

#### Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Inland Rivers, Ninth Coast Guard District; Stay (Suspension)

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Commander, Ninth Coast Guard District is staying (suspending) reporting requirements under the Regulated Navigation Area (RNA) established for barges loaded with certain dangerous cargoes (CDC barges) in the inland rivers of the Ninth Coast Guard District. This stay (suspension) extension is necessary because the Coast Guard continues to analyze future reporting needs and evaluate possible changes in CDC reporting requirements. This stay (suspension) of the CDC reporting requirements in no way relieves towing vessel operators and fleeting area managers responsible for CDC barges in the RNA from their dangerous cargo or vessel arrival and movement reporting obligations currently in effect under other regulations or placed into effect under appropriate Coast Guard authority.

**DATES:** This rule is effective in the CFR on January 23, 2013 until 11:59 p.m. on September 30, 2013. This rule is effective with actual notice for purposes of enforcement at 12:01 a.m. on January 15, 2011 until 11:59 p.m. on September 30, 2013.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2013-0019. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket

number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this rulemaking. 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this temporary rule, call or email LCDR David Webb, U.S. Coast Guard; telephone 216-902-6050, email: [David.M.Webb@uscg.mil](mailto:David.M.Webb@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

CDC	Certain Dangerous Cargo
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

##### A. Regulatory History and Information

The Coast Guard is issuing this temporary final 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)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable, unnecessary, and contrary to the public interest.

The contract for the CDC barge reporting system at the Inland River Vessel Movement Center (IRVMC) expired in January 2011. Due to the expiration of this contract, the Coast Guard would not be able to receive and process reports, therefore, in late December 2010, the Coast Guard decided to suspend the IRVMC reporting requirements for a two-year period. This suspension was published in the **Federal Register** at 76 FR 2829 (January 18, 2011), and expired on January 15, 2013.

At this time, the contract for the CDC barge reporting system has not been renewed, and the Coast Guard is still considering whether to enter into a new contract and lift the suspension, modify the reporting requirements in the RNA, or repeal the RNA completely. An extension of the stay is necessary while

the Coast Guard continues to consider these options.

We believe prior notice and comment is unnecessary because we expect the affected public will have no objection to resuming the stay (suspension) of regulatory requirements that expired on January 15, 2013. The Coast Guard received no public comment or objection regarding the suspension that was in effect from 2011 until January 15, 2013. Prior notice and comment is also contrary to the public interest because there is no public purpose served by continuing to require reports when there is no mechanism for receiving or processing those reports.

Under 5 U.S.C. 553(d)(1), a substantive rule that relieves a restriction may be made effective less than 30 days after publication. This temporary final rule, suspending the reporting requirements and thereby relieving the regulatory restriction on towing vessel operators and fleeting area managers provided by 33 CFR 165.921, is effective in the CFR on January 23, 2013 and, for purposes of enforcement, is effective at 12:01 a.m. on January 15, 2011.

##### B. Basis and Purpose

The legal basis for this rulemaking is the Coast Guard's authority to establish regulated navigation areas, under 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, 160.5; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1. An RNA is a water area within a defined boundary for which regulations for vessels navigating within the area have been established, to control vessel traffic in a place determined to have hazardous conditions. 33 CFR 165.10; Commandant Instruction Manual M16704.3A, 1-6.

The purpose of this temporary final rule is to resume the suspension of reporting requirements that was in place between January 2011 and January 15, 2013. This temporary rule relieves the towing vessel operators and fleeting area managers responsible for CDC barges from the 33 CFR 165.921 reporting requirements for a nine month period.

##### C. Discussion of the Final Rule

During the suspension of reporting requirements, towing vessel operators and fleeting area managers responsible for CDC barges will be relieved of their obligation to report their CDCs under 33 CFR 165.921(d), (e), (f), (g), and (h). This suspension in no way relieves towing vessel operators and fleeting area managers responsible for CDC barges