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Issued on January 29, 2021.

**Lance T. Gant,**

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

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**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Parts 1915 and 1926**

RIN 1218-AD29

**Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors; Correction**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Final rule; correction and correcting amendment.

**SUMMARY:** OSHA is making minor changes to the final rule published on August 31, 2020, titled Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors, to correct inadvertent errors in the published rule.

**DATES:** Effective February 24, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Press inquiries: Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693-1999; email: [meilinger.francis@dol.gov](mailto:meilinger.francis@dol.gov).

General and technical information: Maureen Ruskin, Acting Director, OSHA Directorate of Standards and Guidance; telephone: (202) 693-1955; email: [ruskin.maureen@dol.gov](mailto:ruskin.maureen@dol.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Summary and Explanation**

On August 31, 2020, OSHA published a final rule revising the standards for occupational exposure to beryllium and beryllium compounds in the

construction and shipyard sectors (85 FR 53910). The document inadvertently failed to revise paragraph (k)(7)(ii) of both standards in the Code of Federal Regulations (CFR), as the final rule purported to do. The document also failed to include the correct language for these revised provisions in two tables in the Economic Feasibility Analysis and Regulatory Flexibility Certification section of the preamble. OSHA is publishing this document to correct these errors.

**II. Exemption From Notice-and-Comment Procedures**

OSHA has determined that these corrections are not subject to the procedures for public notice and comment specified in Section 4 of the Administrative Procedures Act (5 U.S.C. 553) or Section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)). This rulemaking only corrects minor errors and does not affect or change any existing rights or obligations. No stakeholder is likely to object to these corrections. Therefore, the agency finds good cause that public notice and comment are unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B), 29 U.S.C. 655(b), and 29 CFR 1911.5.

*Preamble Corrections*

In FR Doc. 2020-18017 appearing on page 53910 in the **Federal Register** of August 31, 2020 (85 FR 53910), make the following corrections in the Economic Feasibility Analysis and Regulatory Flexibility Certification section of the preamble.

1. On page 53991, in the third column, in Table VI.1, the sixth paragraph is corrected to read as follows:

“Added a new requirement in paragraph (k)(7)(ii) that the employer must ensure that, as part of the evaluation, the employee is offered any tests deemed appropriate by the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. If any of the tests deemed appropriate by the examining physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee.”

2. On page 53994, in the third column, in Table VI.2, the first paragraph is corrected to read as follows:

“Added a new requirement in paragraph (k)(7)(ii) that the employer

must ensure that, as part of the evaluation, the employee is offered any tests deemed appropriate by the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. If any of the tests deemed appropriate by the examining physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee.”

**List of Subjects**

*29 CFR Part 1915*

Beryllium, Health, Occupational Safety and Health, Shipyards.

*29 CFR Part 1926*

Beryllium, Construction, Health, Occupational Safety and Health.

**Authority and Signature**

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, directed the preparation of this notice pursuant to 29 U.S.C. 653, 655, and 657, Secretary of Labor’s Order 8-2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR part 1911.

Signed at Washington, DC, on February 4, 2021.

**Amanda L. Edens**

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

For reasons stated in the preamble, the Occupational Safety and Health Administration corrects 29 CFR parts 1915 and 1926 with the following correcting amendments:

**PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT**

■ 1. The authority citation for part 1915 continues to read as follows:

**Authority:** 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor’s Order No. 12-71 (36 FR 8754); 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), or 1-2012 (77 FR 3912); 29 CFR part 1911; and 5 U.S.C. 553, as applicable.

■ 2. In § 1915.1024, revise paragraph (k)(7)(ii) to read as follows:

**§ 1915.1024 Beryllium.**

\* \* \* \* \*

(k) \* \* \*

(7) \* \* \*

(ii) The employer must ensure that, as part of the evaluation, the employee is offered any tests deemed appropriate by

the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. If any of the tests deemed appropriate by the examining physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee.

\* \* \* \* \*

**PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION**

**Subpart Z—Toxic and Hazardous Substances**

■ 3. The authority citation for 29 CFR part 1926, subpart Z, continues to read as follows:

**Authority:** 40 U.S.C. 3704; 29 U.S.C. 653, 655, 657; and Secretary of Labor’s Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912) as applicable; and 29 CFR part 1911.

■ 4. In § 1926.1124, revise paragraph (k)(7)(ii) to read as follows:

**§ 1926.1124 Beryllium.**

\* \* \* \* \*

(k) \* \* \*

(7) \* \* \*

(ii) The employer must ensure that, as part of the evaluation, the employee is offered any tests deemed appropriate by the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. If any of the tests deemed appropriate by the examining physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee.

\* \* \* \* \*

[FR Doc. 2021–02809 Filed 2–23–21; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG–2021–0034]

RIN 1625–AA00

**Safety Zone; Duluth-Superior Harbor, Duluth, MN and Superior, WI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain waters of Duluth-Superior Harbor encompassed by a box from Connor’s Point Marina in Superior, WI to Rice’s Point in Duluth, MN and extending 100 yards from four (4) barges placed across the waterway. This action is necessary to protect the safety of life on these navigable waters of Duluth-Superior Harbor near the Blatnik Bridge for an extreme sports event. This rulemaking would prohibit persons, vehicles, and vessels from entering, transiting, or anchoring in the safety zone unless authorized by the Captain of the Port Duluth or a designated representative.

**DATES:** This rule is effective February 24, 2021 through March 5, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0034 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 about this proposed rulemaking, call or email LT Abbie Lyons, Chief, Incident Management Division, U.S. Coast Guard; telephone 218–725–3818, email [Abbie.E.Lyons@uscg.mil](mailto:Abbie.E.Lyons@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 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 temporary rule takes place after the closure of the Sault Saint Marie Locks on a frozen waterway with no anticipated vessel traffic. Further, delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the events taking place during Red Bull’s filming of the snowmachine stunts across the waterway.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30-day notice period to run would be impracticable and contrary to the public interest.

**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 Duluth (COTP) has determined that this rule is necessary to protect the safety of people, vessels, vehicles, and the navigable waters within the safety zone immediately before, during, and after the scheduled event.

**IV. Discussion of the Rule**

The COTP establishing a safety zone from 9 a.m. through 4 p.m. daily from February 25, 2021 through March 5, 2021. The safety zone covers all navigable waters from Connor’s Point Marina, along the Blatnik Bridge (Interstate 535 Bridge) to Rice’s Point Landing, extending 100 yards on either side of the barges along the waterway. The duration of the zone is intended to protect the safety of persons, vehicles, vessels, and these navigable waters immediately before, during, and after the scheduled event. No vessel, vehicle, or person would 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