

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

### § 117.437 [Removed]

■ 2. Remove § 117.437.

Dated: July 30, 2018.

**Paul F. Thomas,**

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

[FR Doc. 2018–17271 Filed 8–10–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2018–0372]

RIN 1625–AA00

#### Safety Zone; Lower Mississippi River, Mile Markers 94 to 97 Above Head of Passes, New Orleans, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent safety zone for the navigable waters of the Lower Mississippi River between mile marker (MM) 94 and MM 97, above Head of Passes. This action is necessary to provide for the safety of life on these navigable waters during firework displays. This regulation prohibits vessels from entering the safety zone before, during, and after the firework displays unless authorized by the Captain of the Port Sector New Orleans or a designated representative.

**DATES:** This rule is effective September 12, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0372 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 Lieutenant Commander Benjamin Morgan, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2231, email [Benjamin.P.Morgan@uscg.mil](mailto:Benjamin.P.Morgan@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port Sector New Orleans  
DHS Department of Homeland Security  
FR Federal Register  
MM Mile Marker  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

### II. Background Information and Regulatory History

The Coast Guard Captain of the Port Sector New Orleans (COTP) is establishing a permanent safety zone on the Lower Mississippi River in order to better provide for the safety of life on these navigable waters during firework displays. The COTP has determined that a large and increasing volume of the firework displays occurring within Sector New Orleans’ area of responsibility take place at locations between mile markers (MMs) 94 and 97 above Head of Passes on the Lower Mississippi River. Many of these events recur annually and are listed in Table 5 of 33 CFR 165.801 titled Sector New Orleans Annual and Recurring Safety Zones. However, a substantial and increasing number of these firework displays are one-time events associated with conventions, weddings, festivals, etc. By creating a permanent safety zone that can be enforced through a notice of enforcement, the COTP can more efficiently provide for the safety of life on these navigable waters. Therefore, on June 18, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Lower Mississippi River, Mile Markers 94 to 97 Above Head of Passes, New Orleans, LA (83 FR 28175). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display safety zone. During the comment period that ended on July 18, 2018, we received two comments.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that a permanent safety zone that can be enforced as necessary for fireworks displays will better allow the COTP to provide for the safety of life. A large and increasing number of marine events has been occurring on the Lower Mississippi River, with the bulk of the events occurring within the same three-mile stretch of river. This rule allows for more timely and efficient responses to these requests and will also greatly reduce the administrative burden the COTP encounters with establishing

individual safety zones for these various events. The purpose of this rulemaking is to ensure the safety of life on these navigable waters within this three-mile segment of the Lower Mississippi River before, during, and after firework displays. Potential hazards associated with firework displays include the accidental discharge of fireworks, dangerous projectiles, and falling embers and other debris.

### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received two comments on our NPRM published on June 18, 2018. One comment was unrelated to the rule. The second comment requested that the regulatory text include geographic coordinates in degrees-minutes-seconds with an associated horizontal datum in order to accurately depict the safety zone boundaries on NOAA nautical charts. The Coast Guard agrees that the requested information would be helpful for NOAA and the public to identify the boundaries of the zone. The regulatory text of this final rule has been updated to include this information.

This rule establishes a permanent safety zone between mile marker (MM) 94 (29°57’32” N, 90°03’05” W) and MM 97 (29°55’19” N, 90°04’00” W), NAD83 datum, on the Lower Mississippi River, above Head of Passes. While this zone encompasses a three-mile section of the waterway, the COTP will limit the enforcement of the zone only to the areas necessary for the protection of life on these navigable waters before, during, and after firework displays. No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative means any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans. Persons and vessels requiring entry into this proposed safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200. Persons and vessels permitted to enter the safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

In accordance with 33 CFR 165.7, for each enforcement of the safety zone established under this proposed rule, the COTP will publish a notice of enforcement in the **Federal Register** as early as practicable. The COTP or a designated representative will inform

the public of the enforcement area and period of this safety zone through Vessel Traffic Service Advisories, Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

## 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration, and location of the safety zone. While this zone would be permanent, it would only be enforced on an as needed basis to better regulate marine events in the area. This typically encompasses one-hour operations for a one-mile portion of the waterway.

### 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 received no comments from the Small Business Administration on this rulemaking. 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.

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 contact 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### 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 and Commandant Instruction M16475.1D, 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 establishing a safety zone on the Lower Mississippi River, mile marker (MM) 94 to MM 97. While this zone will be permanent, it will only be subject to enforcement on an as-needed basis. 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. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact 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 recordkeeping 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:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.845 above the center heading “Ninth Coast Guard District” to read as follows:

**§ 165.845 Safety Zone; Lower Mississippi River, mile markers 94 to 97 above Head of Passes, New Orleans, LA.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River, New Orleans, LA from mile marker (MM) 94 (29°57'32" N, 90°03'05" W) to MM 97 (29°55'19" N, 90°04'00" W), NAD83 datum, on the Lower Mississippi River, above Head of Passes.

(b) *Enforcement period.* The safety zone established by this section will be enforced only upon notice of the Captain of the Port Sector New Orleans (COTP). In accordance with 33 CFR 165.7, for each enforcement of a safety zone established under this section, the COTP will publish a notice of enforcement in the **Federal Register** as early as practicable. In addition, the COTP will also inform the public of the enforcement area and times of this section as indicated in paragraph (d) of this section.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited to all vessels and persons except vessels authorized by the COTP or designated representative. A designated representative means any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of Sector New Orleans.

(2) Persons and vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF-FM Channel 16 or 67 or by telephone at (504) 365-2200.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement period of this safety zone through Vessel Traffic Service Advisories, Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: August 6, 2018.

**K.M. Luttrell,**

*Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.*

[FR Doc. 2018-17263 Filed 8-10-18; 8:45 am]

**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2018-0718]

RIN 1625-AA00

**Safety Zone; Allegheny River, Miles 43.5 to 45.5, Kittanning, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all navigable waters of the Allegheny River, extending the entire width of the river, from mile marker (MM) 43.5 to MM 45.5. This safety zone is necessary to protect persons, property, and the marine environment from potential hazards associated with a boat race. Entry of persons or vessels into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

**DATES:** This rule is effective each day from 9 a.m. to 8 p.m. from August 17, 2018, through August 19, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0718 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 Petty Officer Charles Morris, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412-221-0807, email [Charles.F.Morris@uscg.mil](mailto:Charles.F.Morris@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
COTP Captain of the Port Marine Safety Unit Pittsburgh  
DHS Department of Homeland Security  
FR Federal Register  
MM Mile marker  
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)(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 is impracticable. This safety zone must be established by August 17, 2018 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the date of the boat race and compromise public safety.

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 this rule would be contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with this boat race.

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

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) has determined that potential hazards associated with this boat race will be a safety hazard for anyone within a two-mile stretch of the Allegheny River. The rule is needed to protect persons, property, and the marine environment in the navigable waters within the safety zone before, during, and after the boat race.

**IV. Discussion of the Rule**

This rule establishes a safety zone from 9 a.m. on August 17, 2018 through 8 p.m. on August 19, 2018. The safety zone will be enforced each day during the effective period from 9 a.m. through 8 p.m. The safety zone will cover all navigable waters of the Allegheny River, extending the entire width of the river, from mile marker (MM) 43.5 to MM 45.5. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the boat race. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh. Persons and vessels seeking entry into this safety zone must request permission from the COTP or a designated representative.