

**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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.1344 to read as follows:

#### § 165.1344 Regulated Navigation Area; Commencement Bay Nearshore/Tideflat Superfund Site, Commencement Bay, Tacoma, WA.

(a) *Regulated Areas.* The following area is a regulated navigation area (RNA): All waters within Dune Park downward to the Point Ruston Historic Ferry dock on Commencement Bay, WA, encompassed by a line connecting the following points beginning at 47°18'12.0" N, 122°30'26.0" W onshore, thence 240 feet to position 47°18'13.0" N 122°30'22.0" W offshore, thence 2,900 feet to position 47°17'52.0" N, 122°29'53.0" W offshore, thence 500 feet to position 47°17'49.0" N 122°29'59.0" W onshore. These coordinates are based on World Geodetic System (WGS 84).

(b) *Regulations.* In addition to the general RNA regulations in § 165.13, the following regulations apply to the RNA described in paragraph (a) of this section.

(1) Prohibited activities include those that would disturb the seabed, such as anchoring, dragging, trawling, spudding, or other activities that involve disrupting the integrity of the sediment caps installed in the designated regulated navigation area, pursuant to the remediation efforts of the U.S. Environmental Protection Agency (EPA) and other participants in the EPA Superfund Cleanup Site. Vessels may otherwise transit or navigate within this area without reservation.

(2) The prohibition described in this section does not apply to vessels or persons engaged in activities associated with remediation efforts in the Middle Waterway Superfund Sites, provided that the Captain of the Port (COTP)

Puget Sound is given advance notice of those activities by the EPA.

Dated: September 28, 2022.

**M.W. Bouboulis,**

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

[FR Doc. 2022–21577 Filed 10–4–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2022–0652]

**RIN 1625–AA00**

#### Safety Zone; Ohio River, Louisville, KY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River from mile marker (MM) 602.5 to MM 603.5 from 7 p.m. on October 24 through 1 a.m. on October 25, 2022. This action is necessary to provide for the safety of life on these navigable waters near Louisville, KY during a planned film stunt on October 24 and 25, 2022. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Ohio Valley or a designated representative.

**DATES:** This rule is effective from 7 p.m. on October 24 through 1 a.m. on October 25, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0652 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email MST2 Christopher Roble, U.S. Coast Guard; telephone 502–779–5336, email [Christopher.J.Roble@uscg.mil](mailto:Christopher.J.Roble@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port Ohio Valley  
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

On July 22, 2022, Messiah’s Star LLC notified the Coast Guard that it will be conducting a film stunt from 7 p.m. on October 24, 2022 to 1 a.m. on October 25, 2022, as part of filming for a film titled “Just One Life.” The stunt is a controlled fall and is to take place from the Big Four Pedestrian Bridge to the Ohio River below at MM 603.

The event will include 3 swimmers, a deck boat, and a houseboat.

In response, on August 8, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Ohio River, Louisville, KY (87 FR 48125). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to the film stunt. During the comment period that ended September 7, 2022, we received no comments.

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 and contrary to the public interest because immediate action is necessary to protect persons and vessels from the safety hazards associated with the planned film stunt event.

## 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 Ohio Valley (COTP) has determined that potential hazards associated with the film stunt on October 24 and 25, 2022, will be a safety concern for anyone on the navigable waters of the Ohio River between MM 602.5 and MM 603.5. The purpose of this rule is to ensure the safety of vessels and these navigable waters during the scheduled 7 p.m. through 1 a.m. film stunt.

## IV. Discussion of the Rule

As noted above, we received no comments on the NPRM published on August 8, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7 p.m. on October 24, 2022 through 1 a.m. on October 25, 2022. The safety zone covers all navigable waters of the Ohio River between MM 602.5 and MM 603.5. The duration of the zone is intended to ensure the safety of vessels and these navigable waters during the scheduled 7 p.m. through 1 a.m. film stunt. 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.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone will restrict transit on a one-mile stretch of the Ohio River for 6 hours on one night. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the 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 received 00 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.

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 will 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 be in place from 7 p.m. on October 24, 2022 through 1 a.m. on October 25, 2022 on the Ohio River between MM 602.5 to MM 603.5.

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 is amending 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; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

- 2. Add § 165.T08–0652 to read as follows:

### § 165.T08–0652 Safety Zone; Ohio River, Miles 602.5–603.5, Louisville, KY

(a) *Location.* The following area is a temporary safety zone: All navigable

waters of the Ohio River between MM 602.5 and 603.5.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Ohio Valley (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of persons and vessels into the safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the COTP or a designated representative. The COTP's representative may be contacted at 502-779-5424.

(d) *Enforcement period.* This section is effective from 7 p.m. on October 24, 2022 through 1 a.m. on October 25, 2022.

Dated: September 22, 2022.

**H.R. Mattern,**

*Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.*

[FR Doc. 2022-21542 Filed 10-4-22; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R06-OAR-2017-0558; FRL-9308-02-R6]

**Finding of Failure To Attain the Primary 2010 One-Hour Sulfur Dioxide Standard for the St. Bernard Parish, Louisiana Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is making a determination that the St. Bernard Parish sulfur dioxide (SO<sub>2</sub>) nonattainment area (“St. Bernard area” or “area”) failed to attain the primary 2010 one-hour SO<sub>2</sub> national ambient air quality standard (NAAQS) under the Clean Air Act (CAA or the Act) by the applicable attainment date of October 4, 2018. This determination is based upon consideration of and review of all relevant and available information for the St. Bernard area leading up to the area’s attainment date of October 4, 2018, including emissions

and monitoring data, compliance records for the area’s primary SO<sub>2</sub> source, the Rain CII Carbon, LLC (Rain) facility, and air quality dispersion modeling based on the allowable limits.

**DATES:** This rule is effective on November 4, 2022.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2017-0558. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Karolina Ruan Lei, EPA Region 6 Office, SO<sub>2</sub> and Regional Haze Section (R6-ARSH), 214-665-7346, [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID-19. Please call or email the contact listed here if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

**I. Background**

The background for this action is discussed in detail in our December 7, 2021 proposal (86 FR 69210). In that document, we proposed to determine that the St. Bernard Parish SO<sub>2</sub> nonattainment area failed to attain the primary 2010 one-hour SO<sub>2</sub> NAAQS under the CAA by the applicable attainment date of October 4, 2018. This proposed determination was based upon consideration of and review of all relevant and available information for the St. Bernard area leading up to the area’s attainment date of October 4, 2018, including (1) emissions and monitoring data, (2) the state’s air quality modeling demonstration, which showed the emission limits and stack parameters required at Rain, the primary source of SO<sub>2</sub> emission in the area, that were necessary to provide for the area’s attainment, and (3) Rain’s available compliance records between the period when the Agreed Order on Consent (AOC) limits became effective (August 2, 2018) and the area’s attainment date. The state’s dispersion modeling is based on the allowable limits in the August 2,

2018 AOC between Rain and the Louisiana Department of Environmental Quality (LDEQ). Compliance with those limits showed modeled design values in attainment of the SO<sub>2</sub> NAAQS, but close to the level of the NAAQS (*i.e.*, with little margin of safety). Rain, however, has demonstrated a pattern of difficulty meeting these federally enforceable applicable SO<sub>2</sub> emission limits and stack parameters (memorialized in its Title V permit and the AOC). Review of Rain’s compliance record provides evidence that emissions have exceeded those prescribed limits, and that stack temperatures and flowrates have not met the parameters present in the modeling, such as (1) reported deviations during the period between the effective date of the limits and the attainment date and (2) reported underestimation of emissions from the hot stack. As a result of these difficulties in meeting the limits in the AOC, we cannot determine that the area attained the standard by the attainment date. EPA’s final determination, described further in this action and explained in our response to comments, relies on the same basis and rationale that was used in our proposed determination.

We received comments on the December 7, 2021 proposal from several commenters including the state, community members and community groups, and industry groups. In the following section, we are providing a summary of responses to certain significant comments received on the proposal. In subsections II.B through II.E of this action, we provide a response to several community comments that while not germane to our final decision here, serve to better aid and inform the public of matters raised by such commenters. The response to comments (RTC) document accompanying this action and found in the public docket for this rulemaking contains these summaries and the full text of all of the comments that the EPA received during the public comment period from December 7, 2021, to January 13, 2022, our full responses to all comments, and additional details on our responses that are not found in this notice. After careful consideration of the public comments, EPA is finalizing the December 7, 2021, proposed finding that the St. Bernard Parish SO<sub>2</sub> nonattainment area has failed to attain the 2010 one-hour SO<sub>2</sub> NAAQS by the applicable attainment date of October 4, 2018.