

Proposed Rules

Federal Register

Vol. 89, No. 86

Thursday, May 2, 2024

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0249]

RIN 1625–AA00

Safety Zone; Upper Mississippi River Mile 202.5–203.5 Near Alton, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for Upper Mississippi River at mile marker 202.5 to 203.2. This action is necessary to provide for the safety of life on these navigable waters near Alton, IL, during a power boat championship race on June 21, 2024, through June 24, 2024. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 14, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2024–0249 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST1 Benjamin Conger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2573, email Benjamin.D.Conger@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, Purpose, and Legal Basis

Great Rivers and Routes Tourism Bureau in Alton, IL, notified the Coast Guard that it will be conducting a power boat championship race from 6 a.m. to 8 p.m. on June 21 to June 24, 2024. The power boat championship race will be held on the Upper Mississippi River, near the Alton riverfront between the Clark Bridge and Argosy Casino. Hazards from the high-speed power boat racers include accidental collisions and serious or significant harm to others. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the high-speed power boats would be a safety concern for anyone within the Upper Mississippi River from mile marker 202.5 to 203.2. Race and event officials have scheduled multiple openings to allow for vessels to transit.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the Upper Mississippi River from mile marker 202.5 to 203.2, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 6 a.m. to 8 p.m. on June 21 through June 24, 2024. The safety zone would cover all navigable waters of the Upper Mississippi River from mile marker 202.5–203.5 near Alton, IL. The duration of the zone is intended to ensure the safety of vessels and these navigable waters during the scheduled 6 a.m. to 8 p.m. power boat championship race, with scheduled openings throughout the 3 day period. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed 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 NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on a safety zone located on the Upper Mississippi River mile markers 202.5–203.2 near Alton, IL. The safety zone will be active only while the power boat championship race is being conducted, from June 21, 2024, until June 24, 2024.

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 certifies under 5 U.S.C. 605(b) that this proposed rule would 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 IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see

ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule. If the proposed rule would 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would 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 proposed rule has implications for federalism or Indian tribes, please call or email 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 proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 made a preliminary determination 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 proposed rule involves a safety zone lasting from 6 a.m. to 8 p.m. that would prohibit entry of Upper Mississippi River from mile marker 202.5 to 203.2. Normally such actions are 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 preliminary 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so,

go to <https://www.regulations.gov>, type USCG–2024–0249 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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 is proposing to amend 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, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

- 2. Add § 165.T08–0706 to read as follows:

§ 165.T08–0706 Safety Zone; Upper Mississippi River, Mile Markers 202.5–203.2, Alton, IL.

(a) Location. The following area is a safety zone: all navigable waters within the Upper Mississippi River, Mile Markers (MM) 202.5–203.2.

(b) Enforcement period. This section is subject to enforcement from June 21, 2024 through June 24, 2024.

(c) Regulations. (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative.

(d) Informational broadcasts. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size or scope of the safety zone as ice or flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: April 22, 2024.

A.R. Bender,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2024–09001 Filed 5–1–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 240415–0108]

RIN 0648–BK65

Proposed Rule To Modify the Duration of Certain Permits and Letters of Confirmation Under the Marine Mammal Protection Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to modify the regulations for Marine Mammal Protection Act (MMPA) section 104 permits, including scientific research, enhancement, photography, and public display permits and Letters of Confirmation (LOCs). The modification would remove the 5-year regulatory limitation on the duration of section 104 permits and LOCs. This would give NMFS the discretion to issue these permits for longer than 5 years where such a duration would be appropriate. This proposed rule would apply only to permits and authorizations issued under section 104 of the MMPA.

DATES: Comments and information must be received no later than June 3, 2024.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0054>. You may submit comments on this document, identified by NOAA–NMFS–2024–0054, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2024–0054 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; ATTN: Jolie Harrison, Chief, Permits and Conservation Division.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Sara Young or Carrie Hubbard, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Authority for Action

Under section 104 of the MMPA (16 U.S.C. 1374), NMFS may issue permits for the take or importation of marine mammals for:

- scientific research (MMPA section 104 (c)(3));
- enhancing the survival or recovery of the species or stock (MMPA section 104 (c)(4));
- public display (MMPA section 104 (c)(2));
- commercial or educational photography (MMPA section 104(c)(6)); and

- scientific research that may result only in taking by Level B harassment under the MMPA’s General Authorization provisions (MMPA section 104 (c)(3)). Level B harassment refers to activities that have the potential to disturb but not injure a marine mammal.

The implementing regulations for scientific research, enhancement, public display, and photography permits can be found at 50 CFR 216.31–216.41. The implementing regulations for issuing LOCs under the General Authorization can be found at § 216.45. Applying for an LOC is a simpler and more expedited process than applying for a scientific research permit. An LOC confirms that an applicant’s proposed research activities will only result in Level B harassment (i.e., activities with the potential to disturb but not injure) and will only target marine mammals that are not endangered or threatened under the Endangered Species Act (ESA). A scientific research permit is required for research on ESA-listed species or for research that involves physical contact with marine mammals.

Background

Section 2 of the MMPA, 16 U.S.C. 1361, provides that it is the Sense of Congress that marine mammals “should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintaining the health and stability of the marine ecosystem.” Section 2, however, also includes Congress’s finding that there is inadequate knowledge of the ecology and population dynamics of marine mammals. Since the MMPA was enacted in 1972, NMFS has issued permits to allow research on marine mammals as well as other permits and authorizations allowing take of marine mammals as specified in section 104.

Take, as defined in section 3 of the MMPA, 16 U.S.C. 1362, and in § 216.3,