

expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulation will not prevent mariners from passing through the Padanaram Bridge, but will only require mariners to plan their transits.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under "ADDRESSES."

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued

under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.587 is revised to read as follows:

#### § 117.587 Apponagansett River.

(a) The draw of the Padanaram Bridge mile 1.0 shall open on signal 1 May through 31 October from 5 a.m. to 9 p.m. daily as follows:

(1) The bridge shall open on signal, twice an hour, on the hour and the half hour between 5 a.m. and 9 a.m. and between 8 p.m. and 9 p.m.

(2) The bridge shall open on signal, once an hour, on the hour between 9 a.m. and 8 p.m.

(b) At all other times the bridge shall open if at least four (4) hours advance notice is given.

(c) The owners of this bridge shall provide and maintain mooring facilities for vessels to make fast while waiting for the bridge to open.

(d) The owners of this bridge shall provide and keep in good legible condition, clearance gauges for each draw with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of section 118.160 of this chapter.

3. Appendix A to Part 117 is amended to add the Apponagansett River entry under the State of Massachusetts subheading to read as follows:

#### APPENDIX A TO PART 117—DRAWBRIDGES EQUIPPED WITH RADIOTELEPHONES

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
*	*	*	*	*	*	*
Massachusetts						
*	*	*	*	*	*	*
Apponagansett River 1.0 Dartmouth	.....	.....	Padanaram, Dartmouth	.....	13	13
*	*	*	*	*	*	*

Dated: May 15, 1995.

**J.L. Linnon,**

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

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#### 33 CFR Part 165

[COTP Paducah 95-002]

RIN 2115-AA97

#### Safety Zone; Upper Mississippi River Mile 00.0 to 055.3

AGENCY: Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Upper Mississippi River from mile 00.0 to 55.3. This regulation is needed to control vessel traffic in the regulated area to prevent further wake damage to levees and property along the river. The regulations will restrict general navigation in the regulated areas for the safety of vessel traffic and the protection of life and property along the river.

**EFFECTIVE DATES:** This regulation becomes effective at 11:30 a.m. on May 21, 1995 and terminates at 8 p.m. on June 30, 1995.

#### FOR FURTHER INFORMATION CONTACT:

LTJG Patrick S. Reilly, Operations Officer, Captain of the Port, Paducah, Kentucky at (502) 442-1621.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

The Upper Mississippi River and its tributaries have been suffering from high water conditions for a week. This has contributed to unusually wet conditions resulting in the softening of the earth levees which protect the adjacent lowlands. The recent rainfall over the Midwest region has pushed rivers above the flood stage, setting

records for high water. As a result, the waters of the Mississippi River threaten or have already overflowed its banks. The Army Corps of Engineers has reported that additional levees will erode, presenting an imminent danger to ongoing flood relief efforts and to life and property along the river, if the levees are subjected to wakes and wheel wash from passing vessels. The flood conditions also present a hazard to navigation in that the area's rivers are carrying a larger amount of trees and debris which have been washed from the river banks and inundated lowlands; once visible obstructions to navigation are now submerged; and river currents are not following normal patterns. Taken as a whole, these conditions present hazards which greatly hinder the safe navigation of recreational and commercial traffic. The Army Corps of Engineers anticipates that it may take several weeks for the water to recede to normal levels. Subsequently, the Captain of the Port Paducah has closed the Upper Mississippi River from mile 00.0 to 055.3.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this rule and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Following normal rulemaking procedures would have been impracticable. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent injury to human life or damage to property of vessels that would be transiting the area.

#### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because of the short duration of the closure.

To avoid any unnecessary adverse economic impact on businesses which use the river for commercial purposes, Captain of the Port Paducah will monitor river conditions and will authorize unrestricted entry into the

regulated area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast (Broadcast Notice to Mariners) on VHF Marine Band Radio, Channel 22 (157.1 MHz). Mariners may also call the Marine Safety Office Paducah for current information.

#### Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.g[5] of Commandant Instruction M16475.1B, (as revised by 59 FR 38654; July 29, 1994) this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

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(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T02-017 is added to read as follows:

#### **§ 165.T02-017 Safety Zone; Mississippi River mile 00.0 to 055.3.**

(a) *Location.* The following area is a Safety Zone: Mississippi River mile 0.0 to 055.3.

(b) *Effective Dates.* This section becomes effective at 11:30 a.m. on May 21, 1995 and terminates at 8 p.m. on June 30, 1995.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port.

Dated: May 21, 1995.

**Robert M. Segovis,**

*Commander, USCG, Captain of the Port.*

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#### 33 CFR Part 165

[COTP St. Louis 95-003]

RIN 2115-AA97

#### **Safety Zone; Missouri River, Mile 0.0 to 366.0**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the Missouri River between mile 0.0 and 366.0. This rule is required for the prevention of damage to levees and protection of flooded areas. This rule will restrict general navigation in the regulated area for the protection of life and property along the shore.

**EFFECTIVE DATE:** This rule is effective on May 16, 1995 and will remain in effect until June 15, 1995 unless terminated sooner by the Captain of the Port.

**FOR FURTHER INFORMATION CONTACT:** LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539-3823.

#### **SUPPLEMENTARY INFORMATION:**

##### **Drafting Information**

The drafters of this rule are LTJG A.B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

##### **Regulatory History**

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Missouri River Basin has caused portions of the Missouri River Basin to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking.