

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded Mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for

which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 10, 2009.

James F. Fulton,

Acting Regional Director, Western Region.

■ For the reasons set out in the preamble, 30 CFR part 944 is amended as set forth below:

PART 944—UTAH

■ 1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 944.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

§ 944.15 Approval of Utah regulatory program amendments

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* May 28, 2008	* September 1, 2009	* Utah Admin. R.645–100–200 definition of intermittent stream; 645–301–131.300; 645–301–535.210; 645–301–535.223; 645–301–551; 645–301–631; 645–301–631.200; 645–301–731.610, 645–301–742.320; 645–301–742.321; 645–301–742.323, 645–301–742.324, 645–301–742.331, 645–301–742.412; 645–301–765.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2009–0561]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, USACE Revetment, Mile Marker 869 to 303

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone on the Lower Mississippi River from mile marker 869.0 to 303.0, extending the entire width of the river, 0.5 mile downriver and 0.5 mile upriver

from the 2009 US Army Corps of Engineers (USACE) revetment work throughout the Lower Mississippi River. This moving safety zone is needed to protect persons and vessels from the potential safety hazards created by the 2009 USACE revetment project. Entry into this zone is prohibited to all vessels and mariners unless authorized by the Captain of the Port (COTP) Lower Mississippi River or a designated representative.

DATES: This rule is effective from September 1, 2009, at 6 a.m. until 6 p.m. to November 1, 2009. The safety zone has been enforced with actual notice since July 4, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0561 and are available online by going to <http://www.regulations.gov>, inserting USCG–2009–0561 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at two locations: the Docket

Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and Sector Lower Mississippi River, 2 Auction Avenue, Memphis, Tennessee 38105 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Chief Warrant Officer Ray Bartlett, Sector Lower Mississippi River Waterways Management Branch, at (866) 777–2784, e-mail: Raymond.J.Bartlett@USCG.MIL. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final 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 publishing an NPRM would be impracticable and contrary to public interest. The USACE revetment project is an annual event that is needed to ensure bank erosion does not affect the proper navigational depth on the Lower Mississippi River. One-way traffic around the work barges and possible closures of this portion of the river are necessary to ensure vessels are not put into jeopardy during the revetment work. Broadcast Notice to Mariners (BNM) will update mariners of the progress of the revetment project throughout the time period.

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**. Publishing an NPRM and delaying its effective date would be contrary to public interest because immediate action is needed to protect USACE vessels and personnel.

Background and Purpose

On 11 June 2009, the USACE notified the COTP Lower Mississippi River of their 2009 revetment schedule. The USACE utilizes special types of barges, Concrete Mat Laying, rock moving crane, and leveling graders along with scoop and pan dredges. Each barge commonly has a M/V for maneuvering. Passing arrangements may be made with the USACE M/V prior to arriving within 0.5 miles of each work site.

Several work locations are planned for the 2009 season. Starting on July 04, 2009, the scheduled work sites are expected to be within the COTP Lower Mississippi River's Area of Responsibility (AOR). Starting at mile marker 839.0, and then continuing down river to approximately 20 other scheduled locations. Each location is predetermined by the USACE.

A hazardous situation could exist for vessels, mariners, and spectators in the vicinity of the revetment work sites due to the inherently dangerous work involved. A safety zone is needed to protect those vessels, mariners, and spectators from the hazards associated with revetment work.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for all waters of the Lower Mississippi River extending the entire width of the river from mile marker 869.0 to mile marker 303.0. Entry into this zone is prohibited unless specifically authorized by the COTP Lower Mississippi River or a designated representative. The COTP Lower Mississippi River may be contacted by telephone at (866) 777-2784. The COTP Lower Mississippi River or a designated representative will inform the public through BNM's of changes in the effective period and locations of the USACE vessels for the safety zone. This rule is effective from July 04, 2009, at 6 a.m. until 6 p.m. on November 01, 2009, or until the USACE revetment work is complete.

Regulatory Evaluation

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This rule will only be in effect for a short period of time and notifications to the marine community will be made through BNM. The impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit between mile marker 869.0 and mile marker 303.0 on the Lower Mississippi River

from July 4, 2009, at 6 a.m. until 6 p.m. on November 1, 2009, or until the USACE revetment work is complete.

This safety zone will not have a significant economic impact on a substantial number of small entities because this rule allows for the USACE M/V to determine safe passage of one way traffic and night-time two way traffic during the time period. In addition, the COTP will provide updates to the mariners with BNM.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so they can better evaluate its effects on them and participate in the rulemaking process. 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.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State Law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 or more in any one year. Though this rule will not result in such

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add new temporary § 165.T08-0561 to read as follows:

§ 165.T08-0561 Safety Zone; Lower Mississippi River, USACE Revetment, Mile Marker 869 to 303.

(a) *Location.* The following area is a safety zone: 0.5 mile downriver and 0.5 mile upriver from the 2009 U.S. Army Corps of Engineers (USACE) revetment work throughout the Lower Mississippi River, beginning at mile marker 869.0 and ending at mile marker 303.0, extending the entire width of the river

during revetment operations. A mooring barge and spar barge will be perpendicular to the shore, and a work barge with a supply barge will be parallel to the shore and tied off to the mooring barge. The work barge utilizes large cranes in conjunction with bulldozers on the river bank to lay the mat. A Broadcast Notice to Mariners will be used by the Captain of the Port (COTP) Lower Mississippi River to identify specific locations of the USACE M/V and revetment locations.

(b) *Effective dates.* This section is effective from 6 a.m. on July 4, 2009, until 6 p.m. on November 1, 2009, or until the USACE revetment work is complete.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone by vessels or mariners is prohibited unless authorized by the COTP Lower Mississippi River or a designated representative.

(2) Persons or vessels requiring entry into or passage through must request permission from the COTP Lower Mississippi River or a designated representative. They may be contacted on VHF-FM Channel 16, or by telephone at (866) 777-2784.

(3) All persons and vessels shall comply with the instructions of the COTP Lower Mississippi River and designated personnel. "Designated personnel" include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: July 28, 2009.

M.S. Gardiner,

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

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-8089]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for