

from 1 p.m. until 6 p.m., June 30, 2011 through July 4, 2011.

Dated: June 10, 2011.

**John N. Healey,**

*Captain, U.S. Coast Guard, Captain of the Port Boston.*

[FR Doc. 2011-15584 Filed 6-21-11; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0434]

RIN 1625-AA00

#### **Safety Zone; Mile Marker 98.5 West of Harvey Lock Gulf Intracoastal Waterway to Mile Marker 108.5 West of Harvey Lock Gulf Intracoastal Waterway**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone imposing restrictions on the Gulf Intracoastal Waterway (GIWW) between West Harvey Lock Gulf West (WHL) mile marker 98.5 to 108.5. All vessels are prohibited from transiting the zone except as specifically authorized by the Captain of the Port or a designated representative. This temporary safety zone is needed to protect the general public, levee system, vessels and tows from destruction, loss or injury due to hazards associated with rising flood water.

**DATES:** Effective Date: This rule is effective in the CFR from June 22, 2011 until 11:59 p.m. July 31, 2011. This rule is effective with actual notice for purposes of enforcement beginning 12:01 a.m. May 26, 2011 through 11:59 p.m. July 31, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0434 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0434 the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary

rule, call or e-mail Lieutenant (LT) Russell Pickering, Coast Guard; telephone 985-380-5334, e-mail [russell.t.pickering@uscg.mil](mailto:russell.t.pickering@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 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 a NPRM would be impracticable since immediate action is needed to protect the general public, levee system, vessels and tows from the hazards associated with rising flood water.

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**. Providing 30 days notice and delaying its effective date would be impracticable since immediate action is needed to protect the general public, levee system, vessels and tows from destruction, loss or injury due to the hazards associated with rising flood water.

##### Basis and Purpose

Captain of the Port Morgan City, Louisiana has determined that there is a need to impose temporary safety restrictions for navigation on certain waterways due to unprecedented high water in conjunction with flood control and protection operations by the Army Corps of Engineers.

##### Discussion of Rule

The Coast Guard is establishing a temporary safety zone imposing restrictions on the Gulf Intracoastal Waterway (GIWW) between West Harvey Lock Gulf West (WHL) mile markers (MM) 98.5 to 108.5 applicable to all commercial traffic. This will affect all East-West traffic through Morgan City on the GIWW. Vessels and tows may not enter this zone unless authorized by the Captains of the Port Morgan City.

##### Regulatory Analyses

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.

Although this regulation will restrict access to the area, the effect of the rule will not be significant because notifications to the marine community will be made through broadcast notice to mariners, Local Notice to Mariners and Marine Safety Information Bulletins. Vessels and tows may request permission and comply with the necessary restrictions from the Captain of the Port Morgan City, or a designated representative, for passage through the temporary safety zone. Passage through the safety zone will be evaluated on a case-by-case-basis to minimize impact and protect the general public, levee system, vessels and tows from destruction, loss or injury due to the hazards associated with rising flood water.

##### 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 through the safety zone from May 26, 2011 through July 31, 2011. This safety zone is not expected to have a significant economic impact on a substantial number of small entities because vessels and tows may request permission and the necessary restrictions from the Captain of the Port Morgan City, or a designated

representative, for passage through the temporary safety zone.

If you are a small business entity and are significantly affected by this regulation, please contact LT Russell Pickering, Marine Safety Unit Morgan City, at (985) 380-5334.

#### 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 that 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 an 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. This rule involves an emergency situation and will be in effect for over one week, but is not expected to result in any significant adverse environmental impact as described in NEPA.

An environmental analysis checklist and a categorical exclusion determination will be provided and made available at the docket as indicated in the **ADDRESSES** section.

#### 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; 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. A new temporary § 165.T08-0434 is added to read as follows:

#### **§ 165.T08-0434 Safety Zone; Mile Marker 98.5 West of Harvey Lock Gulf Intracoastal Waterway to Mile Marker 108.5 West of Harvey Lock Gulf Intracoastal Waterway**

(a) *Location.* Waters of the Gulf Intracoastal Waterway (GIWW) between West Harvey Lock Gulf West (WHL) MM 98.5 to MM 108.5.

(b) *Effective date.* This rule is effective May 26, 2011 through July 31, 2011 and enforceable with actual notice upon signature, May 26, 2011.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Morgan City.

(2) Vessels requiring entry into or passage through the Safety Zone must request permission from the Captain of the Port Morgan City, or a designated representative. They may be contacted on VHF Channel 11, 13 or 16, or by telephone at (985) 380-5370.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Morgan City and designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: May 26, 2011.

**J.C. Burton,**

*Captain, U.S. Coast Guard, Captain of the Port Morgan City, Louisiana.*

[FR Doc. 2011-15583 Filed 6-21-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0385]

RIN 1625-AA00

#### Safety Zone; Upper Mississippi River, Mile 180.0 to 179.0

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River, from Mile 180.0 to 179.0, extending the entire width of the river. This safety zone is needed to protect persons, spectators, and vessels from safety hazards associated with a demonstration of Marine Corps combat capabilities. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Upper Mississippi River or a designated representative.

**DATES:** This rule is effective from 12 p.m. on June 23, 2011 through 6 p.m. CDT on June 25, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0385 and are available online by going to <http://www.regulations.gov>, inserting

USCG-2011-0385 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at 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. EST, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Chief Petty Officer Bryan Klostermeyer, Sector Upper Mississippi River Response Department at telephone (314) 269-2566, e-mail [Bryan.K.Klostermeyer@uscg.mil](mailto:Bryan.K.Klostermeyer@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 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 using the NPRM process. The Coast Guard received minimal notice that the Marine Corps demonstration, which did not allow for the time needed to publish a NPRM and provide for a comment period. Delaying this rule by publishing a NPRM would be impracticable and unnecessarily delay the scheduled demonstration. This rule is needed to protect vessels and mariners from the safety hazards associated with such a demonstration.

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**. The Coast Guard received minimal notice that the Marine Corps demonstration, which did not allow for a 30-day notice period. Delaying this rule by providing 30 days notice would be impracticable and unnecessarily delay the scheduled demonstration. Delaying the rule’s effective date would be impracticable because immediate action is needed to protect vessels and mariners from the safety hazards associated with a demonstration of Marine Corps combat capabilities.

##### Basis and Purpose

From June 23 through June 25, 2011 the USMC 3rd Battalion, 24th Marines will conduct a series of demonstrations of Marine Corps combat capabilities between Mile 180.0 and 179.0 on the Upper Mississippi River. This event presents safety hazards to the navigation of vessels between Mile 180.0 and 179.0, extending the entire width of the river. To provide for the safety of the public, the Coast Guard will temporarily restrict access to this section of the Upper Mississippi River during the scheduled demonstrations.

##### Discussion of Rule

The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River, Mile 180.0 to 179.0, extending the entire width of the river. Entry into this zone is prohibited to all vessels and persons except participants and those persons and vessels specifically authorized by the Captain of the Port Upper Mississippi River. This rule is effective from 12 noon on June 23, 2011 through 6 p.m. CDT on June 25, 2011. This rule will be enforced from 3:30 p.m. until 5 p.m. CDT on June 23 and 24, 2011, and 1:30 p.m. until 3 p.m. CDT on June 25, 2011. The Captain of the Port Upper Mississippi River will inform the public through broadcast notice to mariners of all safety zone requirements changes and enforcement periods.

##### Regulatory Analyses

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.

Although this regulation will restrict access to this area, the effect of the rule is not significant because: (1) This rule will be in effect for a limited time period and notifications to the marine community will be made through local notice to mariners; and (2) vessels may be permitted to transit the area by the Captain of the Port Upper Mississippi River or designated representative.