

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket Number USCG–2013–0989]

RIN 1625–AA00

**Safety Zone; Lower Mississippi River Mile 94.1–Mile 95.1; New Orleans, LA**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all waters of the Lower Mississippi River from mile marker 94.1 to mile marker 95.1 above head of passes (AHP). This safety zone is necessary to protect persons and vessels from potential safety hazards associated with a fireworks display in the Lower Mississippi River at mile marker 94.6 AHP. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or a designated representative.

**DATES:** This rule is effective from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014.

**ADDRESSES:** Documents indicated in this preamble are parts of docket [USCG–2013–0989] and are available online at [www.regulations.gov](http://www.regulations.gov). 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 Lieutenant Commander (LCDR) Brandon Sullivan, Sector New Orleans, at (504) 365–2281 or [Brandon.J.Sullivan@uscg.mil](mailto:Brandon.J.Sullivan@uscg.mil). If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:****Table of Acronyms**

AHP Above Head of Passes  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
MM Mile Marker  
NPRM Notice of Proposed Rulemaking

**A. Regulatory History and Information**

The Coast Guard is issuing this 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 it is impracticable and unnecessary. This safety zone is needed to protect vessels and mariners from the safety hazards associated with an aerial fireworks display taking place over the waterway. Providing notice and comment for this rule establishing the necessary safety zone would be impracticable as it would delay the safety measure necessary to protect life and property from the possible hazards associated with the display. Delay would also unnecessarily interfere with the planned fireworks display. The impacts on navigation are expected to be minimal as the safety zone will only impact navigation for a short duration.

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**. Waiting a full 30 days after publication in the **Federal Register** is contrary to the public interest as that would delay the effectiveness of the safety zone until after the planned fireworks event. Immediate action is needed to protect vessels and mariners from the safety hazards associated with an aerial fireworks display that will last for only a short duration. The Coast Guard will notify the public and maritime community that the safety zone will be in effect and of its enforcement periods via broadcast notices to mariners.

**B. Basis and Purpose**

J&M Displays is sponsoring a fireworks display from a barge located at MM 94.6 AHP on the Lower Mississippi River. This event will take place from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014. The Coast Guard has determined that a safety zone is needed to protect the public, mariners, and vessels from the hazards associated with these aerial fireworks displays over the waterway.

The legal basis and authorities for this rule are found in 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; and Department of Homeland Security Delegation No.

0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

**C. Discussion of the Final Rule**

The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014. The safety zone will include the entire width of the Lower Mississippi River in New Orleans, LA, from MM 94.1 to MM 95.1 AHP. Entry into this zone is prohibited unless permission has been granted by the Captain of the Port New Orleans, or a designated representative.

The Captain of the Port New Orleans will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule. Mariners and other members of the public may also contact Coast Guard Sector New Orleans Command Center to inquire about the status of the safety zone, at (504) 365–2200.

**D. Regulatory Analyses**

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

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This safety zone will restrict navigation on the Lower Mississippi River from MM 94.1 to MM 95.1 AHP, for approximately 20 minutes from December 31, 2013 to January 1, 2014. Due to the short duration of the event, the impacts on routine navigation are expected to be minimal.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 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 rule will not have a significant economic impact on a substantial number of small entities because the safety zone will only be subject to enforcement for approximately 20 minutes from December 31, 2013 to January 1, 2014. Before the activation of the zone, COTP New Orleans will issue maritime advisories widely available to users of the river and will make notifications to the public through marine band radio when the safety zone is being enforced. Additionally, deviation from this rule may be requested and will be considered on a case-by-case basis by COTP New Orleans or a COTP New Orleans designated representative.

### 3. Assistance for Small Entities

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 would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section, above.

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.

### 4. 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).

### 5. Federalism

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 determined that this rule does not have implications for federalism.

### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

### 7. 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.

### 8. Taking of Private Property

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

### 9. 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.

### 10. 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.

### 11. 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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

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

### 14. 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 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 establishing a temporary safety zone for all waters of the Lower Mississippi River from MM 94.1 to MM 95.1 AHP. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination 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. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191; 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.T08–0989 is added to read as follows:

#### § 165.T08–0989 Safety Zone, Lower Mississippi River Mile 94.1–Mile 95.1; New Orleans, LA.

(a) *Location.* The following areas are safety zones: All waters of the Lower Mississippi River from mile marker 94.1

to mile marker 95.1 above head of passes, New Orleans, LA.

(b) *Effective Date.* This rule is effective from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014.

(c) *Periods of Enforcement.* The safety zone for MM 94.1 to MM 95.1 AHP will be enforced from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014. The Captain of the Port (COTP) New Orleans or a COTP New Orleans designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) The safety zone is closed to all persons and vessels, except as may be permitted by the COTP New Orleans or a COTP New Orleans designated representative.

(3) Vessels requiring deviation from this rule must request permission from the COTP New Orleans or a COTP New Orleans designated representative. They may be contacted on VHF-FM Channel 16 or 67, or through Coast Guard Sector New Orleans at 504-365-2200.

Dated: December 2, 2013.

**P. W. Gautier,**

*Captain, U.S. Coast Guard, Captain of the Port New Orleans.*

[FR Doc. 2013-30647 Filed 12-23-13; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2013-0837]

RIN 1625-AA00

#### Safety Zone; Barge Launches; Gulfport Lake; Gulfport, MS

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** The Coast Guard is establishing a safety zone for Gulfport Lake, Gulfport, MS. This action is necessary for the protection of persons

and vessels on navigable waters during the launching of barges in Gulfport Lake, Gulfport, MS, particularly small craft in the area that risk being swamped. Entry into, transiting or anchoring in the zone during the launching of barges is prohibited for all vessels, mariners, and persons unless specifically authorized by the Captain of the Port Mobile or a designated representative. The Coast Guard also requests comments on this interim rule before establishing a final rule.

**DATES:** This rule is effective without actual notice from December 24, 2013 through December 31, 2016. For the purposes of enforcement, actual notice will be used from November 8, 2013, until December 24, 2013.

Comments and related material must be received by the Coast Guard on or before January 23, 2014.

**ADDRESSES:** Documents mentioned in this preamble are part of Docket Number USCG-2013-0837. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments identified by docket number USCG-2013-0837, using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* (202) 493-2251.

(3) *Mail or Delivery:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202) 366-9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Stanley A. Tarrant, Coast Guard Sector Mobile, Waterways Management Division; telephone (251) 441-5940, email [Stanley.A.Tarrant@uscg.mil](mailto:Stanley.A.Tarrant@uscg.mil).

[uscg.mil](mailto:uscg.mil). If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Acronyms**

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
NPRM Notice of Proposed Rulemaking

#### **A. Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### *1. Submitting Comments*

If you submit a comment, please include the docket number (USCG-2013-0837) for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0837) in the "SEARCH" box and click "SEARCH". Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may