

Delaware River, adjacent to Penn's Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at latitude 39°56'31.2" N, longitude 075°08'28.1" W; thence to latitude 39°56'29".1 N, longitude 075°07'56.5" W, and bounded on the north by the Benjamin Franklin Bridge.

As specified in § 165.506, during the enforcement period no vessel may transit this safety zone without approval from the Captain of the Port Delaware Bay (COTP). If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.506 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advanced notification of this enforcement period via Broadcast Notice to Mariners (BNM). If the COTP, Delaware Bay, determines that the regulated area need not be enforced for the full duration, a BNM to grant general permission to enter the safety zone will be used.

Dated: June 14, 2016.

**Benjamin A. Cooper,**

*Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.*

[FR Doc. 2016-15032 Filed 6-27-16; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2016-0538]

RIN 1625-AA00

#### **Safety Zone; Allegheny River Mile 0–0.5, Monongahela River Mile 0–0.5, Ohio River Mile 0–0.5, Pittsburgh, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters of the Allegheny River, Monongahela River, and Ohio River from mile 0.0–0.5 on each of the three rivers. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created from a barge-based fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Pittsburgh.

**DATES:** This rule is effective on July 9, 2016 from 8:30 p.m. until 10:30 p.m.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0538 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412-221-0807, email [Jennifer.L.Haggins@uscg.mil](mailto:Jennifer.L.Haggins@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 Information and Regulatory History**

The Coast Guard is issuing this temporary 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 the Coast Guard received notice on June 8, 2016 that this fireworks display would take place. After receiving and fully reviewing the event information, circumstances, and exact location, the Coast Guard determined that a safety zone is necessary to protect personnel, vessels, and the marine environment from potential hazards created from a barge-based fireworks display on the navigable waterway. It would be impracticable to complete the full NPRM process for this safety zone because it needs to be established by July 9, 2016. The fireworks display has been advertised and the local community has prepared for the event.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to public interest of ensuring the safety of spectators and vessels during the event.

Immediate action is necessary to prevent possible loss of life and property during the hazards created by a barge-based fireworks display.

##### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Pittsburgh (COTP) has determined that a safety zone is needed on July 9, 2016. This rule is needed to protect personnel, vessels, and the marine environment from potential hazards created from a barge-based fireworks display.

##### **IV. Discussion of the Rule**

This rule establishes a safety zone on July 9, 2016 from 8:30 p.m. until 10:30 p.m. The safety zone will cover all navigable waters on the Allegheny River, Monongahela River, and Ohio River from mile 0.0–0.5 on each of the three rivers. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created from a barge-based firework display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

##### **V. Regulatory Analyses**

We developed this 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts a small portion of the waterway on each of the three rivers and for a limited duration of two hours. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue broadcast notices to mariners

via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to transit the zone.

#### 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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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.

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.

#### C. 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).

#### 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 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 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

#### 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 rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. 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 (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 a safety zone lasting two hours that will prohibit entry to the Allegheny River, Monongahela River, and Ohio River from mile 0.0–0.5 on each of the three rivers, during the barge-based firework event. It 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.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### G. 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.

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

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; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0538 to read as follows:

#### § 165.T08–0538 Safety Zone, Allegheny River, Monongahela River, and Ohio River, Pittsburgh, PA.

(a) *Location.* The following area is a safety zone: Allegheny River, Monongahela River, and Ohio River from mile 0.0–0.5 on each of the three rivers.

(b) *Enforcement.* This rule will be enforced, from 8:30 p.m. until 10:30 p.m. on July 9, 2016.

(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 Pittsburgh or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Pittsburgh or a designated representative. The Captain of the Pittsburgh representative may be contacted at 412–221–0807.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh or their designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers.

(d) *Information Broadcasts.* The Captain of the Port Pittsburgh or a 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.

L. McClain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### 33 CFR Part 401

RIN 2135-40

#### Civil Penalties

**AGENCY:** Saint Lawrence Seaway Development Corporation (SLSDC), Department of Transportation (DOT).

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule updates the maximum civil penalty amounts for violations of statutes and regulations administered by SLSDC pursuant to the Federal Civil Penalties Inflation Adjustment Improvement Act of 2015. This final rule amends our regulations to reflect the new civil penalty amounts for violations of the Seaway Regulations and Rules under the authority of the Ports and Waterways Safety Act of 1972, as amended (PWSA).

**DATES:** *Effective date:* This rule is effective July 28, 2016.

**FOR FURTHER INFORMATION CONTACT:** Carrie Lavigne, Chief Counsel, SLSDC, telephone (315) 764-3231, 180 Andrews Street, Massena, NY 13362.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Improvement Act (the 2015 Act), Public Law 114-74, Section 701, was signed into law. The purpose of the 2015 Act is to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act requires agencies to make an initial catch up adjustment to the civil monetary penalties they administer through an interim final rule and then to make subsequent annual adjustments for inflation. The amount of increase of any adjustment to a civil penalty pursuant to the 2015 Act is limited to 150 percent of the current penalty.

Agencies are required to issue the interim final rule with the initial catch up adjustment by July 1, 2016.

The method of calculating inflationary adjustments in the 2015 Act differs substantially from the methods used in past inflationary adjustment rulemakings conducted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act), Public Law 101-410. Previously, adjustments to civil penalties were conducted under rules that required significant rounding of figures. For example, a penalty increase that was greater than \$1,000, but less than or equal to \$10,000, would be rounded to the nearest multiple of \$1,000. While this allowed penalties to be kept at round numbers, it meant that penalties would often not be increased at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent. Over time, this formula caused penalties to lose value relative to total inflation.

The 2015 Act has removed these rounding rules; now, penalties are simply rounded to the nearest \$1. While this creates penalty values that are no longer round numbers, it does ensure that penalties will be increased each year to a figure commensurate with the actual calculated inflation. Furthermore, the 2015 Act “resets” the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act, which contributed to a decline in the real value of penalty levels. To do this, the 2015 Act requires agencies to identify, for each penalty, the year and corresponding amount(s) for which the maximum penalty level or range of minimum and maximum penalties was established (*i.e.*, originally enacted by Congress) or last adjusted by statute or regulation other than pursuant to the Inflation Adjustment Act.

The Director of the Office of Management and Budget (OMB) provided guidance to agencies in a February 24, 2016 memorandum on how to calculate the initial adjustment required by the 2015 Act.<sup>1</sup> The initial catch up adjustment is based on the change between the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October in the year the penalty amount was established or last adjusted by Congress and the October 2015 CPI-U. The February 24, 2016

<sup>1</sup>Memorandum from the Director of OMB to Heads of Executive Departments and Agencies, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Feb. 24, 2016), available at [www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf](http://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf).

memorandum contains a table with a multiplier for the change in CPI-U from the year the penalty was established or last adjusted to 2015. To arrive at the adjusted penalty the agency must multiply the penalty amount when it was established or last adjusted by Congress, excluding adjustments under the Inflation Adjustment Act, by the multiplier for the increase in CPI-U from the year the penalty was established or adjusted provided in the February 24, 2016 memorandum. The 2015 Act limits the initial inflationary adjustment to 150 percent of the current penalty. To determine whether the increase in the adjusted penalty is less than 150 percent, the agency must multiply the current penalty by 250 percent. The adjusted penalty is the lesser of either the adjusted penalty based on the multiplier for CPI-U in Table A of the February 24, 2016 memorandum or an amount equal to 250 percent of the current penalty. This interim final rule adjusts the civil penalties for violations of statutes and regulations that SLSDC administers consistent with the February 24, 2016 memorandum.

##### II. Inflationary Adjustments to Penalty Amounts in 33 CFR Part 401

The Ports and Waterways Act of 1972, as amended by the Ports and Tanker Safety Act, Public Law 95-474, sec. 2, Oct. 17, 1978, 92 Stat. 1471 (1978), established a maximum civil penalty of \$25,000 for each violation of the Seaway Rules and Regulations at 33 CFR part 401. This civil penalty has not been updated since it was established, except for inflationary adjustments pursuant to the Inflation Adjustment Act of 1990. Applying the multiplier for the increase in CPI-U for 1978 in Table A of the February 24, 2016 memorandum (3.54453) results in an adjusted civil penalty of \$88,613, which is below the 150 percent cap. Accordingly, paragraph (a) of § 401.102 is being amended to change the amount of the penalty to \$88,613.

##### Public Comment

SLSDC is promulgating this interim final rule to ensure that the civil penalties amount contained in 33 CFR 401.102 reflects the statutorily mandated ranges as adjusted for inflation. Pursuant to the 2015 Act, SLSDC is required to promulgate a “catch-up adjustment” through an interim final rule. Pursuant to the 2015 Act and 5 U.S.C. 553(b)(3)(B), SLSDC finds that good cause exists for immediate implementation of this interim final rule without prior notice and comment because it would be