

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

[Docket Number USCG-2016-0885]

RIN 1625-AA00

Safety Zone; Arkansas River, Little Rock, AR**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Arkansas River beginning at mile marker 118.6 and ending at mile marker 119.6. The safety zone is necessary to protect persons, property, and infrastructure from potential damage and safety hazards associated with the demolition of the Broadway Bridge. This rulemaking would impose a speed restriction and prohibit persons and vessels from entering the safety zone area during certain operations unless authorized by the Captain of the Port Memphis or a designated representative.

DATES: This rule is effective from 7 a.m. on October 1, 2016 through 10 p.m. on November 1, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0885 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 Petty Officer Todd Manow, Sector Lower Mississippi River Prevention Department, U.S. Coast Guard; telephone 901-521-4813, email Todd.M.Manow@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port
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. Although the Coast Guard received initial notification of this planned bridge demolition in February of the previous year, the dates of each phase of demolition were not finalized and submitted until August 29, 2016. Immediate action is needed to respond to potential safety hazards related to a bridge demolition on or over this navigable waterway. It is impracticable and contrary to the public interest to publish an NPRM because we must establish this safety zone by October 1, 2016.

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 the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with demolition of the Broadway Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with a bridge demolition starting October 1, 2016 will be a safety concern for anyone desiring to transit this section of the Arkansas River. This rule is needed to protect personnel, vessels, and infrastructure in the navigable waters within the safety zone while bridge demolition is occurring.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. on October 1, 2016 through 10 p.m. on November 1, 2016. The safety zone will cover all navigable waters within one half mile on either side of the Broadway Bridge. Vessels will be prohibited from entering the safety zone from 30 minutes prior to, until 30 minutes after, any blasting or large-scale removal operation that takes place on the Broadway Bridge; designated representatives will be on-scene to stop or reroute traffic during these evolutions. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. During the entire effective period of this safety zone,

regardless of operations, all vessel traffic will be required to maintain slowest speeds for safe navigation; marker buoys will be placed informing waterway users of a no-wake zone. This safety zone is intended to protect personnel, vessels, and infrastructure in these navigable waters while the bridge is being demolished.

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 and location of the safety zone, a one-mile section of the Arkansas River in the vicinity of Little Rock, AR. Although in effect from October 1, 2016 until November 1, 2016, traffic will only be excluded from this safety zone from 30 minutes before until 30 minutes after any blasting or large-scale removal operation that takes place on the Broadway Bridge. During periods of non-exclusion, vessel traffic will be allowed to transit at slowest speeds for safe navigation through this safety zone. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter 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 month-long safety zone limiting vessel speed and intermittently prohibiting entry into a one-mile area of the Arkansas River adjacent to the Broadway Bridge during demolition operations. 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

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; 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. Temporary § 165.35T08–0885 is added to read as follows:

§ 165.35T08–0885 Safety Zone; Arkansas River; Little Rock, AR.

(a) *Location.* All waters of the Arkansas River beginning at mile marker 118.6 and ending at mile marker 119.6 in the vicinity of Little Rock, AR.

(b) *Periods of enforcement.* This temporary safety zone will be enforced from 7 a.m. on October 1, 2016 through 10 p.m. on November 1, 2016.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this area during blasting or large-scale removal operations is prohibited unless authorized by the COTP or a designated representative. All persons and vessels permitted to deviate from the safety zone requirements, as well as enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(2) Buoys marked “No-Wake” will be placed along the navigation channel while this safety zone is in effect.

(3) Persons or vessels requiring entry into or passage through this safety zone during prohibited entry periods must request permission from the COTP or a designated representative. They may be contacted on VHF Channel 16 or at 1–800–777–2784.

(4) A “designated representative” of the COTP is any Coast Guard commissioned, warrant, or petty officer, or a Federal, State, or local law enforcement officer designated by the COTP to act on his behalf.

(d) *Informational broadcasts.* The COTP Memphis 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 dates and times of enforcement.

Dated: September 20, 2016.

J.L. Adams,
Lieutenant Commander, U.S. Coast Guard,
Acting Captain of the Port, Memphis,
Tennessee.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596-AD00

Sale and Disposal of National Forest System Timber; Forest Products for Traditional and Cultural Purposes

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The USDA Forest Service is implementing regulations under the Food, Conservation, and Energy Act of 2008 (hereinafter the “2008 Farm Bill”). This rule provides for the provision of trees, portions of trees, or forest products from National Forest System lands, free of charge, to federally recognized Indian tribes (Indian tribes) for traditional and cultural purposes. This rule implements section 8105 of the 2008 Farm Bill.

DATES: This rule is effective October 26, 2016.

ADDRESSES: Information on this final rule may be obtained via written request addressed to Director, Forest Management Staff, USDA Forest Service, Mail Stop 1103, 1400 Independence Avenue SW., Washington, DC 20250 or by email to FarmBillForestProductsRule@fs.fed.us. The public may inspect comments previously received at the Office of the Director, Forest Management Staff, Sidney Yates Building, Third Floor SW Wing, 201 14th Street SW., Washington, DC or via the world wide web/Internet at http://www.fs.fed.us/forestmanagement/traditional_cultural/index.shtml. Visitors are encouraged to call ahead to 202-205-1766 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Joe Reddan, Assistant Director, Forest Products, 202-557-6591 or Sharon Nygaard-Scott, Forest Service, Forest Management Staff, 202-205-1766, during normal business hours. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

The Forest Service is issuing this final rule to implement section 8105 of the 2008 Farm Bill (section 8105). Section 8105 has also been codified in Title 25 of the U.S. Code, chapter 32A—Cultural and Heritage Cooperation Authority (25 U.S.C. 3055—Forest Products for Traditional and Cultural Purposes). Subject to certain statutory limitations, section 8105 allows the Secretary of Agriculture to provide Indian tribes with trees, portions of trees, or forest products for traditional and cultural purposes. In this preamble to the final rule, the term “forest products” is used as a shorthand for “trees, portions of trees, or forest products”. Specifically, section 8105(a) provides that the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.

However, pursuant to section 8105(b), Indian tribes are prohibited from using any trees, portions of trees, or forest products provided under section 8105(a) for commercial purposes. While the 2008 Farm Bill does not define commercial purposes, it does define Indian tribe and traditional and cultural purpose. Section 8102(5) defines Indian tribe as any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1). In addition, per section 8102(9), traditional and cultural purpose, with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.

On December 2, 2009, the Forest Service published an Interim Directive (ID) to the Forest Service Handbook (FSH) 2409.18 to implement section 8105 of the 2008 Farm Bill. The ID was reissued, without change, four times (effective March 8, 2011 (ID 2409.18-2011-1), June 7, 2012 (ID 2409.18-2012-2), December 6, 2013 (ID 2409.18-2013-3), and May 14, 2015 (ID 2409.18-2015-1), and remains in effect until November 14, 2016. This final rule will replace the Interim Directive, which will be entered in FSH 2409.18, chapter 80, section 82.5.

The proposed rule was published in the **Federal Register** on July 31, 2014 (79 FR 44327), and a comment period

ensued over a period of 60 days. The Forest Service received 12 written comments through 10 letters, and all were considered in the development of this final rule.

This rule establishes Forest Service policy for providing Indian tribes with trees, portions of trees, or forest products for traditional and cultural purposes. Based on the comments received on the ID during formal government-to-government consultation, and those received during the proposed rulemaking, as well as the Agency’s experience using the ID to implement section 8105 over the last 7 years, the Agency is now publishing this final rule.

This final rule adds § 223.15 to 36 CFR part 223, subpart A. Section 223.15(a) authorizes Regional Foresters or designated Forest Officers to provide trees, portions of trees, or forest products to Indian tribes free of charge for traditional and cultural purposes. Section 223.15(b) restates the 2008 Farm Bill’s statutory definitions of “Indian tribe” and “traditional and cultural purpose,” and includes the Forest Services’ regulatory definition of “tribal officials.”

Sections 223.15(c) and (d) describe who can request trees, portions of trees, or forest products for traditional and cultural purposes, and where those requests should be directed. Tribal officials should submit requests for trees, portions of trees, or forest products to their local Forest Service District Ranger’s office for routing to the appropriate designated authority. In addition, tribal officials are encouraged to explain their requests to the Regional Forester or designated Forest Officer, and if necessary, how the request fits a traditional and cultural purpose.

A designated Forest Officer is an individual whom the Regional Forester has granted written authority to provide products under § 223.15. Currently, there is no limitation on the number of requests or authorizations per unit of a forest product or the number of requests or authorizations per Indian tribe. There is currently no limitation on the amount of trees, portions of trees, or forest products that can be requested at any one time. However, Forest Officers cannot grant materials in excess of the value limitations at § 223.15(e) in any given fiscal year.

Section 223.15(f) explains that the Forest Service may condition or deny requests for trees, portions of trees, or forest products under § 223.15. Finally, § 223.15(g) provides that all decisions made under § 223.15 must comply with the National Forest Management Act, relevant land management plans, the