

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117****[Docket No. USCG–2018–0825]****Drawbridge Operation Regulation; Okeechobee Waterway (Caloosahatchee River), LaBelle, FL****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Caloosahatchee River (SR 29/LaBelle) Bridge across the Okeechobee Waterway (Caloosahatchee River), mile 103, at LaBelle, FL. The deviation is necessary to accommodate repairs to the bridge. This deviation allows the bridge single-leaf openings with advanced notice for a double-leaf opening.

**DATES:** This deviation is effective without actual notice from November 21, 2018 through 6 a.m. on December 31, 2018. For the purposes of enforcement, actual notice will be used from 6 a.m. on August 13, 2018, until November 21, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2018–0825 is available at <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 deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email MST1 Deborah A. Schneller, Coast Guard Sector Saint Petersburg Waterways Management Division; telephone (813) 228–2194 x 8133, email [Deborah.A.Schneller@uscg.mil](mailto:Deborah.A.Schneller@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Seacoast Inc., on behalf of the bridge owner, Florida Department of Transportation (FDOT), has requested a temporary deviation from the current operating regulation that governs the Caloosahatchee River (SR29/LaBelle) Bridge across the Okeechobee Waterway (Caloosahatchee River), mile 103, at LaBelle, FL. The deviation is necessary to facilitate necessary repairs to the structural integrity of the bridge. The existing bridge is a double-leaf bascule bridge with at vertical clearance in the closed to navigation position of 28 feet under normal water level conditions on the Okeechobee Waterway.

The current operating schedule is set out in 33 CFR 117.317(i)(j). Under this

temporary deviation, the bridge will provide single-leaf openings utilizing the current operating schedule. Request for a double-leaf opening requires advance notice by contacting the bridge tender at (813) 228–2191 at least four hours in advance. The vertical clearance of the bridge will be reduced to 26 feet under normal water level conditions on the Okeechobee Waterway to allow for post tensioning of the existing steel floor beams. The Okeechobee Waterway (Caloosahatchee River) is used by a variety of vessels including U.S. government vessels, small commercial vessels, recreational vessels and tugs and barge traffic. The Coast Guard has carefully considered the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to provide a double-leaf opening for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 15, 2018.

**Barry L. Dragon,***Director, Bridge Branch, Seventh Coast Guard District.*

[FR Doc. 2018–25332 Filed 11–20–18; 8:45 am]

**BILLING CODE 9110–04–P****DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket Number USCG–2018–0653]****RIN 1625–AA00****Safety Zone; Ohio River, Mile 28.0 to 29.2, Vanport, Pennsylvania****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River from mile 28.0 to mile 29.2. This action

is necessary to protect persons, vessels, and the marine environment from potential hazards associated with power line work across the river. Entry of persons or vessels into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

**DATES:** This rule is effective without actual notice from November 21, 2018 through December 31, 2018. For the purposes of enforcement, actual notice will be used from 6 a.m. on November 16, 2018 through November 21, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0653 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 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; 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  
COTP Captain of the Port Marine Safety Unit Pittsburgh  
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)(3)(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. This safety zone must be established by November 16, 2018 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the date of the power line pulls and compromise public safety.

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**. Delaying this rule would be contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with power line work, which could pose a risk to the operation and waterways users if the normal vessel traffic were to interfere with the work. Possible hazards include risks of injury or death from near or actual contact among working vessels and mariners traversing through the safety zone.

### 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 Marine Safety Unit Pittsburgh (COTP) has determined that potential hazards associated with power line pulls across the Ohio River will be a safety hazard for anyone within a 1.2 mile stretch of the Ohio River. The rule is needed to protect people from power line work which could pose a risk to the operation and waterways users if the normal vessel traffic were to interfere with the work. Possible hazards include risks of injury or death from near or actual contact among working vessels and mariners traversing through the safety zone.

### IV. Discussion of the Rule

This rule establishes a temporary safety zone from 6 a.m. through 8 p.m. on November 16, 2018 through December 31, 2018. The safety zone will cover all navigable waters of the Ohio River, from mile 28.0 to mile 29.2. The duration of the zone is intended to protect persons, vessels, and the marine environment on these navigable waters before, during, and after the power line pulls. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh. Persons and vessels seeking entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF-FM Channel 16 or by telephone at (412) 221-0807. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful instructions of the COTP or a designated representative. The COTP or a designated representative will inform the public of the enforcement period for

the safety zone as well as any changes in the schedule through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNM), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

### 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 13563 (“Improving Regulation and Regulatory Review”) and 12866 (“Regulatory Planning and Review”) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

#### 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 temporary 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 Enforcement 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 an 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 Directive 023–01 and Commandant Instruction M16475.1D, 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 13 hours on each day that will prohibit entry on a 1.2 mile stretch of the Ohio River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### 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. Add § 165.T08–0653 to read as follows:

#### § 165.T08–0653 Safety Zone; Ohio River, mile 28.0 to mile 29.2, Vanport, PA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Ohio River from mile 28.0 to mile 29.2.

(b) *Effective period.* This section is effective without actual notice from November 21, 2018 through December 31, 2018. For the purposes of enforcement, actual notice will be used from 6 a.m. on November 16, 2018 through November 21, 2018.

(c) *Enforcement periods.* This section will be enforced from 6 a.m. through 8 p.m. daily. Breaks in the power line work will occur during the enforcement periods, which will allow for vessels to pass through the safety zone. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative will provide notice of breaks as appropriate under paragraph (e) of this section.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh.

(2) Persons and vessels seeking entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by telephone at (412) 221–0807.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful instructions of the COTP or a designated representative.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement period for the safety zone as well as any changes in the schedule through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety

Information Bulletins (MSIBs) as appropriate.

Dated: November 16, 2018.

**A.W. Demo,**

*Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.*

[FR Doc. 2018–25379 Filed 11–20–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS–R5–ES–2017–0056; 4500030113]

RIN 1018–BC44

### Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Candy Darter

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for the candy darter (*Etheostoma osburni*), a freshwater fish species from Virginia and West Virginia. This rule adds this species to the Federal List of Endangered and Threatened Wildlife.

**DATES:** This rule is effective December 21, 2018.

**ADDRESSES:** This final rule is available on the internet at <http://www.regulations.gov> and <https://www.fws.gov/northeast/candydarter>. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at <http://www.regulations.gov>. Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours, at: U.S. Fish and Wildlife Service, West Virginia Ecological Services Field Office, 694 Beverly Pike, Elkins, WV 26241–9475; telephone 304–636–6586.

**FOR FURTHER INFORMATION CONTACT:** John Schmidt, Field Supervisor, West Virginia Ecological Services Field Office, 694 Beverly Pike, Elkins, WV 26241–9475; telephone 304–636–6586. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**