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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0293]

Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie Zone for Events Beginning in May 2021

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce established safety zones for maritime events starting in May 2021 to provide for the safety of life on navigable waterways. Our regulation for safety zones within the Captain of the Port Sault Sainte Marie Zone identifies the regulated area for these safety zones. During the enforcement periods, vessels must stay out of the established safety zone and may only enter with permission from the designated representative of the Captain of the Port Sault Sainte Marie.

DATES: The regulations in 33 CFR 165.918 will be enforced for the safety zones identified in Table 1 of the

This action is being taken to provide for the safety of life on navigable waterways during the fireworks displays. The regulations for safety zones within the Captain of the Port Sault Sainte Marie Zone, § 165.918, apply for these fireworks displays.

This notice of enforcement is issued under authority of 33 CFR 165.918 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 advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Sault Sainte Marie determines that the safety zone need not be enforced for the full duration stated in this notice he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.


A.R. Jones,
Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

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Supplementary Information

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 it is impracticable. We must establish this regulation by May 3, 2021 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule.

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 the effective date of this rule would be contrary to the public interest because immediate action is necessary to protect persons and property from the dangers associated with the marine event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Tanners Creek Wire Crossing, occurring from May 3, 2021 through May 8, 2021 from 9 a.m. until 5 p.m. daily, or until operations are complete, will be a safety concern for all navigable waters on the Ohio River, extending the entire width of the river, from mile marker (MM) 490.0 to MM 492.0. The purpose of this rule is to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone on May 3, 2021 through May 8, 2021 from 9 a.m. until 5 p.m. daily, or until operations are complete on all navigable waters of the Ohio River, extending the entire width of the river, from MM 490 to MM 492. Transit into and through this area is prohibited during periods of enforcement on these dates and times. The periods of enforcement will be prior to, during, and 30 minutes after any vessel movement and wire transfer operations at Tanners Creek. The Coast Guard was informed that the operations will take place between 9 a.m. through 5 p.m. Enforcement of the regulated area will occur while the wire crossing operations are being conducted. A safety vessel will coordinate all vessel traffic during the enforced times of this safety zone. The duration of the safety zone is intended to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled event. 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 Sector Ohio Valley. They may be contacted on VHF–FM Channel 16 or by telephone at 1–800–253–7465. Persons and vessels permitted to enter this regulated area must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the 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. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone will be in place on a 2-mile stretch of the Ohio River from May 3, 2021 through May 8, 2021 from 9 a.m. until 5 p.m. daily, or until operations are complete. The Coast Guard will issue written Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the temporary safety zone, and this rule also allows vessels to seek permission from the COTP or a designated representative to enter the area.

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 call or email 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.
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: 46 U.S.C. 70034, 70051; 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.T08–0286 to read as follows:

§165.T08–0286 Safety zone; Ohio River, Lawerenceburg, IN.

(a) Location. All navigable waters of the Ohio River between mile marker (MM) 490.0 to MM 492.0 in Lawrenceburg, IN.

(b) Period of enforcement. This section will be enforced from May 3, 2021 through May 8, 2021, from 9 a.m. until 5 p.m. daily, or until operations are complete, whichever occurs first.

(c) 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 Sector Ohio Valley (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

(2) Persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued 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 Sector Ohio Valley. They may be contacted on VHF–FM Channel 16 or by telephone at 1–800–253–7465. Persons and vessels permitted to enter this regulated area must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) Informational broadcasts. The COTP or a designated representative will issue written Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the temporary safety zone, and this rule also allows vessels to seek permission from the COTP or a designated representative to enter the area.


A.M. Beach,
Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0294]

Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie Zone for Events Beginning in June 2021

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce established safety zones for maritime events starting in June 2021 to provide for the safety of life on navigable waterways. Our regulation for safety zones within the Captain of the Port Sault Sainte Marie Zone identifies the regulated area for these safety zones. During the enforcement periods, vessels must stay out of the established safety zone and may only enter with permission from the designated representative of the Captain of the Port Sault Sainte Marie.

DATES: The regulations in 33 CFR 165.918 will be enforced for the safety zones identified in Table 1 of the SUPPLEMENTARY INFORMATION section below for the dates and times specified.

FOR FURTHER INFORMATION CONTACT: If you have questions about this publication, call or email Lieutenant Deaven Palenzuela, Waterways Management division, Coast Guard Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906–635–3223, email ssmprevention@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones in 33 CFR 165.918 as per the time, dates, and locations in Table 1.