The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Music City Grand Prix from August 6, 2021 until August 8, 2021, will be a safety concern for anyone within a 0.4 mile radius of the Korean Veterans Bridge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the Music City Grand Prix is occurring.

IV. Discussion of the Rule

The COTP is establishing a safety zone on the following dates during these time periods: From 2 p.m. to 6:30 p.m. on August 6, 2021; from noon to 5 p.m. on August 7, 2021; and from 4:30 p.m. to 7 p.m. on August 8, 2021. The safety zone would cover all navigable waters between mile marker 191.1 and 191.5 on the Cumberland River in Nashville, TN. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled Music City Grand Prix. No vessel or person would be permitted to enter the safety zone 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 public interest because immediate action is needed to ensure the safety of the participants and vessels during the Music City Grand Prix Indy Car Race starting on August 6, 2021.
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.
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. Vessel traffic will be able to
safely transit around this safety zone which
would impact a small designated area of the
Cumberland River before or after the
time of the events on each day.
Moreover, the Coast Guard would issue
a Broadcast Notice to Mariners via
VHF–FM marine channel 16 about the
zone, and the rule would allow 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 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 businesses. 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

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.

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, Rev. 1, associated
implementing instructions, and
Environmental Planning COMDTINST
5090.1 (series), 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 proposed rule
involves a safety zone lasting 12 hours
spread over the course of 3 days that
would prohibit entry within .4 miles of
the Korean Veterans Bridge. 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. 1. A
Record of Environmental Consideration
supporting this determination is
available in the docket. For instructions
on locating the docket, see the
ADDITIONAL ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First
Amendment rights of protestors.
Protesters are asked to call or email 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, FTC.

For the reasons discussed in the
preamble, the Coast Guard is amending
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.T08–0247 to read as follows:

§ 165.T08–0247 Safety Zone; Cumberland
River, Nashville, TN.

(a) Location. The following area is a
safety zone: All navigable waters of the
Cumberland River from mile marker 191.1 to mile marker 191.5.

(b) Definitions: As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Ohio Valley (COTP) in the enforcement of the safety zone.

(c) Regulations. (1) Under the general safety zone regulations in part C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP’s designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s representative by VHF–FM radio channel 16 or phone at 1–800–253–7465. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) Enforcement periods. This rule will be enforced from 2 p.m. until 6:30 p.m. on August 6, 2021, from noon until 5 p.m. on August 7, 2021, and from 4:30 p.m. until 7 p.m. on August 8, 2021.

Dated: July 1, 2021.

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

For further information contact: Britt Jung, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Email: EANS@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Supplementary Information:
Purpose of Program: Section 2002 of the ARP Act, titled “Emergency Assistance to Non-Public Schools,” appropriates $2,750,000,000 for the Department to make allocations to Governors under the ARP EANS program “to provide services or assistance to non-public schools that enroll a significant percentage of [students from low-income families] and are most impacted by the [COVID–19] emergency.”


Background: The ARP Act extends the EANS program authorized under section 312(d) of division M of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), with two exceptions: (1) A State educational agency (SEA) may only provide services or assistance under ARP EANS to non-public schools that enroll a significant percentage of students from low-income families and are most impacted by the [COVID–19] emergency, and (2) a SEA may not use ARP EANS funds to provide reimbursements to any non-public school.

Under the ARP EANS program, consistent with section 312(d)(1) of division M of the CRRSA Act, the Department will allot funds by formula to each Governor with an approved application based on the State’s relative share of children aged 5 through 17 who are from families at or below 185 percent of the 2020 Federal poverty level and enrolled in non-public schools, as determined by the Department on the basis of non-public school enrollment data from the U.S. Census Bureau’s American Community Survey (ACS) Public Use Microdata Sample (PUMS) for 2015–2019, which can be accessed here: https://www.census.gov/programs-surveys/acs/microdata.html. The amount available to each State may be found at: https://oese.ed.gov/offices/education-stabilization-fund/emergency-assistance-non-public-schools/.

As described in more detail below, the Secretary of Education (Secretary) is establishing final requirements for the ARP EANS program to (1) make clear that, with the exceptions noted above, the requirements of the EANS program authorized under section 312(d) of division M of the CRRSA Act (CRRSA EANS) apply to ARP EANS, and (2) establish guidelines to determine that a non-public school enrolls a significant percentage of students from low-income families and is most impacted by the COVID–19 emergency.

Prior to issuing these final requirements, the Department invited comment regarding implementation of the requirement “to provide services or assistance to non-public schools that enroll a significant percentage of [students from low-income families] and are most impacted by the [COVID–19] emergency” as part of the ARP EANS program; or the COTP or the COTP’s designated representative.

Inviting Applications and Announcing Allocations for the Emergency Assistance to Non-Public Schools Program Under the American Rescue Plan Act of 2021, published on April 12, 2021. The Department received 66 comments, which it reviewed and considered in developing these final requirements.

With respect to the significant poverty percentage, comments generally fell into three groups that advocated for: (1) Establishing a specific significant poverty percentage, as high as 75 percent; (2) prioritizing schools in the same manner as under the CRRSA EANS program; or (3) providing a State discretion to determine the significant poverty percentage for non-public schools within the State. Commenters advocating for a specific high poverty percentage did so on the premise that it would ensure that resources are targeted to the most under-resourced communities, which they assert is consistent with congressional intent. Multiple commenters noted that a 75 percent poverty percentage would align with the definition of a “high-poverty school” used by the National Center for Education Statistics and the threshold for serving public schools in rank order, without regard to grade spans, applicable to within-district allocations under title I, part A (title I) of the Elementary and Secondary Education Act of 1965 (ESEA) (see section 1113(a)(3)(A) of the ESEA). By contrast, other commenters asserted that an

1 Under these final requirements, “students from low-income families” has the same meaning as “low-income students” under section 2002(a) of the ARP Act. “Students from low-income families” is a term used in section 312(d) of division M of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021.