

**§ 100.T799–0084 Special Local Regulation; Swim Around Charleston, Wando River, Cooper River, Charleston Harbor, and Ashley River; Charleston, SC.**

(a) *Location.* The following area is a moving safety zone: All waters 50 yards in front of the lead safety vessel preceding the first race participants, 50 yards behind the safety vessel trailing the last race participants, and at all times extend 100 yards on either side of safety vessels. The Swim Around Charleston swimming race consists of a 12 mile course that starts at Remley's Point on the Wando River in approximate position 32°48'49" N, 79°54'27" W, crosses the main shipping channel under the main span of the Ravenel Bridge, and finishes at the I–526 bridge and boat landing on the Ashley River in approximate position 32°50'14" N, 80°01'23" W. All coordinates are North American Datum 1983.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Sector Charleston COTP in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Sector Charleston COTP or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Sector Charleston COTP by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Sector Charleston COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Sector Charleston COTP or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 10 a.m. until 4 p.m., on October 31, 2021.

Dated: October 20, 2021.

J.D. Cole,

*Captain, U.S. Coast Guard, Captain of the Port Charleston.*

[FR Doc. 2021–23288 Filed 10–25–21; 8:45 am]

BILLING CODE 9110–04–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG–2021–0811]

RIN 1625–AA00

**Safety Zone; Ohio River, Friendly, WV**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters of the Ohio River from mile marker 145–151 for safety concerns regarding an unknown, possibly explosive device found on a barge. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the reported device. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley.

**DATES:** This rule is effective without actual notice from October 26, 2021, through October 28, 2021. For purposes of enforcement, actual notice will be used from October 21, 2021, until October 26, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0811 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST3 Wesley Cornelius, MSU Huntington, U.S. Coast Guard; 304–733–0198, [STL-SMB-MSUHuntington-WWM@uscg.mil](mailto:STL-SMB-MSUHuntington-WWM@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 reported device requires immediate action to respond to the potential safety hazards. It is impracticable and contrary to the public interest to publish an NPRM because we must establish this safety zone by October 21, 2021.

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 impracticable and contrary to public interest because it would create significant safety hazards to the public. Immediate action is needed to respond to the potential safety hazards associated with the reported device.

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

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 Ohio Valley (COTP) has determined that potential hazards associated with the unknown, possibly explosive device reported October 21, 2021, will be a safety concern for anyone on the Ohio River from mile marker 145 to mile marker 151. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while emergency responders and law enforcement officers assess the device.

**IV. Discussion of the Rule**

This rule establishes a safety zone from October 21, 2021 through October 28, 2021. The safety zone will cover all navigable waters on the Ohio River from mile marker 145 to mile marker 151. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters for the duration of emergency response and law enforcement operations. No vessel or person will be permitted to enter the safety zone

without obtaining permission from the COTP or a designated representative. If the need for the zone ends before October 28, the COTP will use a broadcast notice to mariners to inform the public that the zone is terminated.

## 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 protesters.

### 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 limited size and duration of the zone, and potential impact to the safety of mariners and waterway users on the Ohio River between mile marker 145 and mile marker 151.

### 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, the economic impact on any vessel owner or operator will be limited by the temporary duration of the zone.

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.

### 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. 01, 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 rule a safety zone lasting seven days that will prohibit vessel operations on the Ohio River from mile marker 145 through mile marker 151. It is categorically excluded from further review under paragraph L[60c] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. 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.

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. 00170.1, Revision No. 01.2.

- 2. Add § 165.T08–0811 to read as follows:

### § 165.T08–0811 Safety Zone; Ohio River, Friendly, WV.

(a) *Location.* The following area is a safety zone: all navigable waters of the Ohio River from mile marker 145 to mile marker 151.

(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 Ohio Valley (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart 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 502-779-5300. 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.

Dated: October 21, 2021.

**A.M. Beach,**

*Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.*

[FR Doc. 2021-23333 Filed 10-25-21; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2021-0344]

RIN 1625-AA00

#### Safety Zone; Piscataqua River Turning Basin Dredge Project, Portsmouth, NH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing two temporary safety zones for the navigable waters of the Piscataqua River in Portsmouth Harbor. The first safety zone will be a 100-yard radius around any vessel, barge, or dredging equipment engaged in dredging operations. The second safety zone will be a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. The safety zones are necessary to protect persons and vessels from hazards associated with dredging, drilling, and blasting operations for overall widening of the uppermost turning basin of the Piscataqua River.

**DATES:** This rule is effective without actual notice from October 26, 2021, through April 15, 2022. For the purposes of enforcement, actual notice will be used from November 1, 2021, until October 26, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0344 in the search box and click

“Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Shaun Doyle, Sector Northern New England Waterways Management Division, U.S. Coast Guard; telephone 207-347-5015, email [Shaun.T.Doyle@uscg.mil](mailto:Shaun.T.Doyle@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
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##### II. Background Information and Regulatory History

On February 12, 2021, the U.S. Army Corps of Engineers notified the Coast Guard of plans to fund dredging operations on the uppermost turning basin of the Piscataqua River in Portsmouth Harbor. The project consists of widening the uppermost turning basin of the Piscataqua River from 800 feet to 1200 feet to improve navigation maneuverability and safety.

In response, on August 25, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Piscataqua River Turning Basin Dredge Project, Portsmouth, NH (86 FR 47433). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this dredging project. During the comment period that ended September 24, 2021, we received no comments.

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

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 Northern New England (COTP) has determined that potential hazards associated with the dredging operations starting November 1, 2021, will be a safety concern for anyone within a 100-yard radius around any vessel, barge, or dredging equipment engaged in dredging operations. Additionally, the COTP has determined that potential hazards associated with the explosives to be used in this operation would be a safety concern for anyone within a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during,

and after the scheduled dredging operations.

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 impracticable because timely action is needed to respond to the potential safety hazards associated with the dredging project.

##### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on August 25, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes two safety zones from November 1, 2021, through April 15, 2022. The first safety zone will be a 100-yard radius around any vessel, barge, or dredging equipment actively engaged in dredging operations. The second safety zone will be a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. The 500-yard safety zone will be enforced during active blasting operations and will be suspended once successful detonation has been confirmed and blasting operations have been secured. The Coast Guard will notify the public and local mariners of the 500-yard safety zone through appropriate means, which may include, but are not limited to, publication in the Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM marine channel 16 in advance of any enforcement. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

##### 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,