

160.206, within the times required in paragraph (a)(3) of this section.

(2)(i) Except for vessels carrying containerized cargo or break bulk cargo, vessels carrying bulk cargo may submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206) before departure but at least 24 hours before entering the U.S. port or place of destination.

(ii) Vessels carrying break bulk cargo operating under a USCS exemption granted under 19 CFR 4.7(b)(4)(ii) may, during the effective period of the USCS exemption, submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206) before departure but at least 24 hours before entering the U.S. port or place of destination.

#### **§ 160.214 Waivers.**

The Captain of the Port may waive, within that Captain of the Port's designated zone, any of the requirements of this subpart for any vessel or class of vessels upon finding that the vessel, route, area of operations, conditions of the voyage, or other circumstances are such that application of this subpart is unnecessary or impractical for purposes of safety, environmental protection, or national security.

#### **§ 160.215 Notice of hazardous conditions.**

Whenever there is a hazardous condition either aboard a vessel or caused by a vessel or its operation, the owner, agent, master, operator, or person in charge shall immediately notify the nearest Coast Guard Marine Safety Office or Group Office. (Compliance with this section does not relieve responsibility for the written report required by 46 CFR 4.05–10.)

Dated: February 19, 2003.

**Paul J. Pluta,**

*Rear Admiral, U. S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 03–4408 Filed 2–24–03; 4:36 pm]

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## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 165**

**[COTP Paducah, KY 03–003]**

**RIN 2115-AA97**

**Safety Zone; Upper Mississippi River, Mile Marker 14.5 to 16.0, Cairo, IL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River from mile marker 14.5 to 16.0, near Cairo, IL. Significant reductions in river levels have caused extreme low water conditions on the Upper Mississippi River. This safety zone is needed to protect vessels transiting the area from the safety hazards associated with the unprecedented low water conditions. Entry into or operation in this zone is prohibited to all vessels unless authorized by the Coast Guard Captain of the Port Paducah or his on-scene representative.

**DATES:** This rule is effective 4 p.m., January 30, 2003, until 8 a.m., March 1, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP Paducah 03–003] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Paducah, 225 Tully St., Paducah, KY 42003 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade (LTJG) Patrick Mounsey, Marine Safety Office Paducah, Port Operations, at (270) 442–1621 ext. 350.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to the safety hazards associated with unprecedented low water levels on the Upper Mississippi River.

##### **Background and Purpose**

The hazardous condition requiring this regulation is significant reductions in river levels on the Upper Mississippi River. A safety zone is needed to protect vessels transiting the area from the safety hazards associated with the unprecedented low water. Entry into or operation in this zone is prohibited to all vessels unless authorized by the Coast Guard Captain of the Port Paducah or his on-scene representative.

##### **Regulatory Evaluation**

This rule is not a “significant regulatory action” under section 3(f) of

Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Inland River Contingency Action Plan provides guidance for marine operations and transportation emergencies on the Upper Mississippi River. The goal of the plan is to serve as a guide for officials of the USCG, U.S. Army Corps of Engineers, and the marine industry to facilitate the safe and orderly movement of barge traffic during a navigational crisis. In accordance with the Mississippi River Contingency Action Plan, members of the USCG, U.S. Army Corps of Engineers, and the marine industry met. Representatives of towing companies that operate in this affected area agreed that in order to protect the vessel traffic transiting the area they will halt all operations until river levels have improved and safe vessel navigation can resume.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Upper Mississippi River, from Mile Marker 14.5 to 16.0 from 4 p.m., January 30, 2003, until 8 a.m., March 1, 2003. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons:

1. This rule will be in effect on a temporary basis until conditions improve.

2. This particular area of the Upper Mississippi River does have a significant number of small entity operations.

If you are a small business entity and are significantly affected by this regulation please contact, LTJG Patrick Mounsey, Marine Safety Office Paducah representative, at (270) 442-1621 ext. 350.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### 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 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.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

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.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National

Environmental Policy Act of 1969 (NEPA).

#### 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(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new § 165.108-013 is added to read as follows:

##### § 165.108-013 Safety Zone; Upper Mississippi River, Mile Marker 14.5 to 16.0, Cairo, IL.

(a) *Location.* The waters of the Upper Mississippi River from mile marker 14.5 to 16.0, extending the entire width of the river.

(b) *Effective period.* This section is effective from 4 p.m. January 30, 2003, until 8 a.m. March 1, 2003.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone by any vessel is prohibited unless authorized by the Captain of the Port Paducah or his on-scene representative.

(2) All vessels requiring entry into the zone must request permission from Captain of the Port Paducah or his designated representative. They may be contacted via VHF channel 16 or by telephone at (270) 442-1621 ext. 350 or (270) 994-7385.

(3) The Captain of the Port Paducah will notify the public of changes in the status of this zone by Marine Radio Safety Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) and through press releases in local newspapers.

Dated: January 30, 2003.

**Patrick T. Keane,**

*Commander, U.S. Coast Guard, Captain of the Port, Paducah.*

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