



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2016-0666]

RIN 1625-AA08

Special Local Regulation; Ouachita River, Monroe, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation controlling movement of vessels for certain waters of the Ouachita River. This rule is necessary to provide for the safety of life on navigable waters during a paddle boat race on October 15, 2016. This regulation requires commercial vessels to notify the Captain of the Port Memphis before entering the event area and require all vessels transiting the area to maintain a minimum speed for safe navigation.

DATES: This rule is effective on October 15, 2016, from 10 a.m. until 2 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0666 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 about this rule, call or email Petty Officer Todd Manow, Waterways Management, Sector Lower

Mississippi River, U.S. Coast Guard; telephone 901-521-4813, email

Todd.M.Manow@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
E.O.	Executive Order
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On May 23, 2016, Louisiana Delta Adventures notified the Coast Guard that it will be conducting a paddle boat race from 10 a.m. to 2 p.m. on October 15, 2016. The paddle boats are to be launched from a boat ramp near mile marker 173.0 at D'Arbonne cutoff in the Ouachita River northwest of West Monroe, LA, and will proceed approximately 7.5 miles downriver to mile marker 166.5 near the Red River Market, Monroe, LA.

The Coast Guard has established special local regulations for similar events and determined that conducting paddle boat races in this portion of navigable waterway, paired with other activities and waterways usage in the area, presents potential safety hazards requiring this regulatory action.

The Coast Guard is issuing this temporary final 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 doing so would be impracticable. Although the event sponsor submitted an initial application for a marine event on May 23, 2016, final details of the event were not known to the Captain of the Port Memphis (COTP) until late August of 2016. This action is necessary to provide for the safety of life on navigable waters during the marine event. It is impracticable to publish an NPRM because we must establish this safety zone by October 15, 2016.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable.

III. Legal Authority and Need for a Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The COTP has determined that potential hazards posed to participants of a paddle boat race in this section of river would be a safety concern for anyone transiting the river from mile marker 173 to 166.5. The purpose of this rulemaking is to ensure the safety of event participants and other waterway users in U.S. navigable waters within mile marker 173 to 166.5 before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a special local regulation from 10 a.m. until 2 p.m. on October 15, 2016. In light of the aforementioned hazards, the COTP has determined that a special local regulation is necessary to protect spectators, vessels, and participants. The special local regulation will encompass the following waterway: all waters of the Ouachita River between mile markers 173 and 166.5 in the vicinity of Monroe, LA.

The COTP or a designated on-scene representative will permit vessels to transit the area on a case-by-case basis. Commercial vessel operators desiring to transit through the regulated area must contact the COTP before doing so. The COTP or a designated on-scene representative may be contacted via VHF Channel 16 or by telephone at 1-866-777-2784. During enforcement, all vessels are to proceed at slowest speed for safe navigation while transiting the regulated area.

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 (E.O.) 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, it has not been reviewed by the

Office of Management and Budget.

The Coast Guard's use of this special local regulation will be only four hours in duration on a Saturday, and it is designed to minimize the impact on navigation. Moreover, vessels may transit through the area affected by this special local regulation at a minimum speed for safe navigation as approved by the COTP on a case-by-case basis. Overall, the Coast Guard expects minimal impact to vessel movement from the enforcement of this special local regulation.

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.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in this portion of the Ouachita River in the vicinity of Monroe, LA between 10 a.m. and 2 p.m. on October 15, 2016.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule will 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. 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 E.O. 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 E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it will 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.

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 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 Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination 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 the establishment of a special local regulation lasting four hours. Such actions are categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100-- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

2. Add § 100.35T08-0666 to read as follows:

§ 100.35T08-0666 Special Local Regulation; Ouachita River; Monroe, LA.

(a) Regulated area. A regulated area is established to encompass the following waterway: all waters of the Ouachita River mile 173 through mile 166.5.

(b) Effective period. This section is effective and will be enforced from 10 a.m. until 2 p.m. on October 15, 2016.

(c) Regulations. (1) In accordance with the general regulations in § 100.801 of this part, commercial vessel operators desiring to operate in the regulated area must contact the Captain of the Port Memphis (COTP) to before doing so. The COTP or a designated representative may be contacted via VHF Channel 16 or by telephone at 1-866-777-2784.

- (2) During enforcement, all vessels are to proceed at slowest speed for safe

navigation while transiting the regulated area.

(d) Informational broadcasts. The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the regulated area as well as any changes in the dates and times of enforcement.

Dated: September 27, 2016

T. J. WENDT
Captain, U.S. Coast Guard
Captain of the Port
Memphis, Tennessee
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