



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0272]

RIN 1625- AA00

Safety Zones; Sector Upper Mississippi River Annual and Recurring Safety Zones Update

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and updating its annual and recurring safety zones that take place in the Coast Guard Sector Upper Mississippi River Captain of the Port Zone (COTP Zone). This regulation informs the public of regularly scheduled events that require additional safety measures through establishing a safety zone.

Through this final rule the current list of recurring safety zones is updated with revisions, additional events, and removal of events that no longer take place in the COTP Zone.

When these safety zones are enforced, vessel traffic is restricted from specified areas.

Additionally, this rulemaking project serves to provide notice of the known recurring safety zones throughout the year.

DATES: This rule is effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0272 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 on this rule, call or email LCDR Sean Peterson, Chief of Prevention, U.S. Coast Guard; telephone 314-269-2332, email Sean.M.Peterson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Upper Mississippi River
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 preceded this final rule with a Notice of Proposed Rulemaking (NPRM) with request for comments. The NPRM was published in the Federal Register on May 8, 2017, (82 FR 21339). The NPRM updated current list of recurring safety zones with revisions, additional events, and removal of events that no longer take place in Sector Upper Mississippi River’s COTP Zone. During the comment period that ended June 7, 2017, we received no comments.

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 the rule is unnecessary, impracticable and against public interest. To wait for the rule to become effective after the publication is impracticable and

against public interest because the Coast Guard would be prevented from enforcing the safety zones this rule is meant to enforce, which would prevent the Coast Guard from providing safety to the public and property, and jeopardize public interests. It is also unnecessary to wait for 30 days because the public had been provided plenty of opportunity to comment on these safety zones, but provided no comments or disagreements.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) Upper Mississippi River has determined that potential hazards associated with the recurring events will cause safety concerns. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zones, before, during, and after the scheduled events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, during the comment period for our NPRM that published May 8, 2017, no comments were received. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes recurring safety zones to restrict vessel transit into and through specified areas to protect spectators, mariners, and other persons and property from potential hazards presented during certain events taking place in Sector Upper Mississippi River's COTP Zone. This final rule amends, updates, and replaces Table 2 in 33 CFR 165.801. No vessel or person will be permitted to enter the safety zones without first 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. Executive Order 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 Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This rule establishes safety zones limiting access to certain areas under 33 CFR 165 within Sector Upper Mississippi River’s COTP Zone. The effect of this proposed rulemaking will not be significant because these safety zones are limited in scope and duration. Additionally, the public is given advance notification through local forms of notice, the **Federal Register**, and/or Notices of Enforcement and thus will be able to plan operations around the safety zones in advance. Entry into the safety zones established through this rulemaking may be requested from the COTP or a designated representative; requests will be considered on a case-by-case basis.

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 received no comments from the Small Business Administration on this rulemaking. 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 (Public Law 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 contact 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. 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 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 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 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 involves establishing safety zones limiting access to certain area under 33 CFR 165 within Sector Upper Mississippi River's COTP Zone. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

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 165

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

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, 6.04-1, 6.04-6, and 160.5;
 Department of Homeland Security Delegation No. 0170.1.

2. In §165.801, revise table 2 to read as follows:

§ 165.801 Annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones.

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TABLE 2 OF §165.801—SECTOR UPPER MISSISSIPPI RIVER ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Sector Upper Mississippi River location	Safety zone
1. 1 day—4th weekend in July	Marketing Minneapolis LLC/Target Aquatennial Fireworks	Minneapolis, MN	Upper Mississippi River mile marker 853.2 to 854.2.
2. 1 day—4th of July weekend	Radio Dubuque/Radio Dubuque Fireworks and Air show	Dubuque, IA	Upper Mississippi River mile marker 581.0 to 583.0.
3. 1 day—2nd weekend of June	City of Champlin/Father Hennepin Fireworks Display	Champlin, MN	Upper Mississippi River mile marker 870.5 to 872.0.
4. 1 day—4th of July weekend	Downtown Main Street/Mississippi Alumination	Red Wing, MN	Upper Mississippi River mile marker 790.8 to 791.2.
5. 1 day—4th of July weekend	Tan-Tar-A Resort/Tan-Tar-A 4th of July Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 025.8 to 026.2.
6. 1 day—1st weekend of September	Tan-Tar-A Resort/Tan-Tar-A Labor Day Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 025.8 to 026.2.
7. 1 day—Last Sunday in May	Tan-Tar-A Resort/Tan-Tar-A Memorial Day fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 025.8 to 026.2.

8. 1 day—4th of July weekend	Lake City Chamber of Commerce/Lake City 4th of July Fireworks	Lake City, MN	Upper Mississippi River mile marker 772.4 to 772.8.
9. 1 day—4th of July weekend	Greater Muscatine Chamber of Commerce/Muscatine 4th of July	Muscatine, IA	Upper Mississippi River mile marker 455.0 to 456.0.
10. 1 day—Last weekend in June/First weekend in July	Friends of the River Kansas City/KC Riverfest	Kansas City, KS	Missouri River mile marker 364.8 to 365.2.
11. 1 day—4th of July weekend	Louisiana Chamber of Commerce/Louisiana July 4th Fireworks	Louisiana, MO	Upper Mississippi River mile marker 282.0 to 283.0.
12. 1 day—4th of July weekend	Guttenberg Development and Tourism/Stars and Stripes River Day	Guttenberg, IA	Upper Mississippi River mile marker 615.0 to 615.5.
13. 4 days—1st or 2nd week of July	Riverfest, Inc./La Crosse Riverfest	La Crosse, WI	Upper Mississippi River mile marker 697.5 to 698.5 (Wisconsin).
14. 1 day—2nd weekend in July	Prairie du Chien Area Chamber of Commerce/Prairie du Chien Area Chamber Fireworks	Prairie du Chien, WI	Upper Mississippi River mile marker 635.2 to 635.7.
15. 1 day—4th of July weekend	JMP Radio/Red White and Boom Peoria	Peoria, IL	Illinois River mile marker 162.5 to 162.1.
16. 1 day—Last weekend in June/First weekend in July	Hudson Boosters/Hudson Booster Days	Hudson, WI	St. Croix River mile marker 016.8 to 017.2.
17. 2 days—4th of July weekend	City of St. Charles/St. Charles Riverfest	St. Charles, MO	Missouri River mile marker 028.2 to 028.8.
18. 1 day—4th of July weekend	Minneapolis Park and Recreation Board/Red, White, and Boom Minneapolis	Minneapolis, MN	Upper Mississippi River mile marker 853.5 to 854.5.
19. 1 day—4th of July weekend	Davenport One Chamber/Red White and Boom	Davenport, IA	Upper Mississippi River mile marker 482.0 to 482.7.

20. 2 days—3rd weekend of July	Amelia Earhart Festival Committee/Amelia Earhart Festival	Kansas City, KS	Missouri River mile marker 422.0 to 424.5.
21. 1 day—4th of July weekend	Alton Exposition Commission/Mississippi Fireworks Festival	Alton, IL	Upper Mississippi River mile marker 202.5 to 203.0.
22. 1 day—3rd Sunday in June	Burlington Steamboat Days/Burlington Steamboat Days	Burlington, IA	Upper Mississippi River mile marker 403.5 to 404.5.
23. 1 day—Last Sunday in May	Lodge of the Four Seasons/Lodge of the Four Seasons Memorial Day Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 013.8 to 014.2.
24. 1 day—First weekend of September	Lodge of the Four Seasons/Labor Day Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 013.8 to 014.2.
25. 1 day—4th of July weekend	Lodge of the Four Seasons/Lodge of the Four Seasons 4th of July	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 013.8 to 014.2.
26. 2 days—3rd weekend in July	Hasting Riverboat Days/Rivertown Days	Hasting, MN	Upper Mississippi River mile marker 813.7 to 815.2.
27. 1 day—Sunday of Father's Day weekend	Winona Steamboat Days/Winona Steamboat Days Fireworks	Winona, MN	Upper Mississippi River mile marker 725.4 to 725.7.
28. 3 days—4th of July weekend	Fair of St. Louis/Fair St. Louis	St. Louis, MO	Upper Mississippi River mile marker 179.2 to 180.0.
29. 1 day—Last weekend in June/First weekend in July	Bellevue Heritage Days/Bellevue Heritage Days	Bellevue, IA	Upper Mississippi River mile marker 556.0 to 556.5.
30. 1 day—4th of July weekend	Main Street Parkway Association/Parkville 4th of July Fireworks	Parkville, MO	Missouri River mile marker 378.0 to 377.5.
31. 1 day—4th of July weekend	Hermann Chamber of Commerce/Hermann 4th of July	Hermann, MO	Missouri River mile marker 097.0 to 098.0 (Missouri).
32. 1 day—4th of July weekend	Grafton Chamber of Commerce/Grafton Chamber 4th	Grafton, IL	Illinois River mile marker 001.5 to

	of July Fireworks		000.5 (Illinois).
33. 1 day—4th of July weekend	Salute to America Foundation, Inc./Salute to America	Jefferson City, MO	Missouri River mile marker 143.5 to 143.0 (Missouri).
34. 1 day—4th of July weekend	McGregor/Marquette Chamber Commerce/Independence Day Celebration	McGregor, IA	Upper Mississippi River mile marker 635.7 to 634.2.
35. 2 days—2nd weekend in August	Tug Committee/Great River Tug	Port Byron, IL	Upper Mississippi River mile marker 497.2 to 497.6 (Illinois).
36. 1 day—4th of July weekend	City of Stillwater/St. Croix Events/Stillwater 4th of July	Stillwater, MN	St. Croix River mile marker 022.9 to 023.5 (Minnesota).
37. 2 days—3rd weekend of September	Riverside Chamber of Commerce/Riverfest	Riverside, MO	Missouri River mile marker 371.8 to 372.2.
38. 4 days—3rd week of July	St. Croix Events/Lumberjack Days	Stillwater, MN	St. Croix River mile marker 022.9 to 023.5 (Minnesota).
39. 2 days—Weekend that precedes Labor Day Weekend	Lake of the Ozarks Shootout, Inc./Lake of the Ozarks Shootout	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 032.5 to 034.5.
40. 2 days—1st weekend of September	City of Keithsburg/Keithsburg Fireworks Display	Keithsburg, IL	Upper Mississippi River mile marker 427.5 to 427.3.
41. 1 day—4th of July weekend	City of East Moline/City of East Moline Fireworks	East Moline, IA	Upper Mississippi River mile marker 490.2 to 489.8.
42. 2nd Weekend in August	Lansing Lion's Club/Lansing Fish Days Fireworks	Lansing, IA	Upper Mississippi River mile marker 662.8-663.9.
43. 3rd Weekend in August	River Action/Floatzilla	Rock Island, Illinois	Upper Mississippi River mile marker 479.0-486.0.

44. 1 day— Weekend before Thanksgiving	Main Street Parkway Association/Parkville Christmas on the River	Parkville, MO	Missouri River mile marker 377.5 to 378.0.
45. 1 day—4th of July weekend	City of Marquette/Marquette Independence Day Celebration	Marquette, IA	Upper Mississippi River mile marker 634.2 to 635.7.
46. 1 day—1st Weekend in June	St. Louis Brewers Guild Festival Fireworks	St. Louis, MO	Upper Mississippi River mile marker 179.2-180
47. 1 day—4th Weekend in May	Lumiere Place/Memorial Day Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5
48. 1 day—1st Weekend in July	Lumiere Place/4 th of July Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5
49. 1 day—1st Weekend in September	Lumiere Place/Labor Day Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5

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Dated: June 15, 2017

M. L. MALLOY,
CAPTAIN, U.S. Coast Guard,
Captain of the Port Upper Mississippi River
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