



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2025-0512]

RIN 1625-AA00

Safety Zone; Ohio River MM 31-32, Industry, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Ohio River from mile marker 31 to mile marker 32 in Industry, PA. We must establish this safety zone because of continuing lock and dam demolition. This regulation will prohibit entry of vessels or persons into the safety zone to protect personnel, vessels, and the marine environment during demolition activities planned from July 1, 2025, through December 31, 2025.

DATES: This rule is effective from July 1, 2025, through December 31, 2025. Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 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 <https://www.regulations.gov>, type USCG-2025-0512 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 about this rule, call or email Petty Officer Brett Lanzel, MSU Pittsburgh Waterways Management Division, U.S. Coast Guard; telephone 206-815-6624, email brett.j.lanzel@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM	Broadcast Notice to Mariners
CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
LNM	Local Notice to Mariners
MM	Mile Marker
MSIB	Marine Safety Information Bulletin
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 interim rule without prior notice and opportunity to comment pursuant to the authority in 5 U.S.C. 553(b)(B). This statutory 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.” 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 and contrary to the public interest. The notice allowing the demolition project to proceed and providing updated timelines for the project was only recently finalized and provided to the Coast Guard, which did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before the existing regulation expires. Timely action is needed to respond to the potential safety hazards associated with demolition of the lock and dam, which involves the use of explosives. It would be impracticable and contrary to the public interest to publish an NPRM because we must establish the safety zone to protect the safety of the waterway users, demolition crew, other personnel associated with the project, and the public. We must establish this safety zone by July 1, 2025, and lack

sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule.

Also, 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**. For the reasons stated in the preceding paragraph, delaying the effective date of this rule is impracticable and contrary to public interest because timely action is needed to respond to the potential safety hazards associated with the demolition of the lock and dam starting July 1, 2025.

Although this regulation is published as an interim rule without prior notice, public comment is nevertheless desirable to ensure that the regulation is both workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under ADDRESSES section of this preamble. Commenters should identify the docket number for the regulation, and give reasons for their comments. If the Coast Guard determines that changes to the temporary interim rule are necessary, we will publish a temporary final rule or other appropriate document.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this temporary interim rule under authority in 46 U.S.C. 70034. The Captain of the Port Pittsburgh (COTP) has determined that potential hazards associated with this lock and dam demolition will be a safety concern for anyone on the Ohio River from MM 31 to MM 32. The use of explosives and other activities involved in demolishing the lock and dam involve inherent risk. This temporary interim rule is needed to minimize the risk to personnel, vessels, property, and the marine environment.

IV. Discussion of the Rule

This temporary interim rule establishes a safety zone from July 1, 2025, through December 31, 2025. The safety zone will cover all navigable waters between mile

marker 31 and mile marker 32 on the Ohio River in Industry, PA. This rule prohibits all persons and vessel traffic from entering the safety zone unless an exception is authorized by the COTP or their designated representative. The COTP anticipates that the safety zone will only be enforced on one or two days per week during daylight hours, until December 31, 2025. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled demolitions of Montgomery Locks and Dam at mile marker 31.6 on the Ohio River.

The Coast Guard will notify the public and local mariners of the enforcement of this safety zone through appropriate means, which may include, but are not limited to, the Local Notice to Mariners and Broadcast Notice to Mariners via marine Channel 16 (VHF-FM) in advance of any enforcement period.

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.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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.

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action,” under section 3(f) of Executive Order 12866.

Accordingly, OMB has not reviewed it.

This regulatory action determination is based on the size, location, and duration of

the temporary safety zone. This safety zone impacts only a one mile stretch of the Ohio River starting July 1, 2025, through December 31, 2025. The safety zone will be enforced only during demolition activities, which are anticipated to take place one to two days per week during daylight hours only, each week throughout the period. Vessel traffic will be permitted to transit the area at other times. Moreover, the Coast Guard will issue Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), via marine channels 13 or 16 (VHF-FM) about the zone. The rule allows vessels to seek permission from the COTP to transit 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 will 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. 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 rule involves a safety zone that impacts only a one mile stretch of the Ohio River starting July 1, 2025 at 4 a.m., through December 31, 2025. 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 ADDRESSES section of this preamble.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2025-0512 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it.

Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T08-0512 to read as follows:

§ 165.T08-0512 Safety Zone; Montgomery Lock and Dam Demolition, Industry, PA

(a) *Location.* The following area is a safety zone: All navigable waters on the Ohio River between mile marker 31 and mile marker 32.

(b) *Definitions.* As used in this section--*Designated Representative* means any Coast Guard commissioned, warrant, petty officer, a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, or any Federal, State, or local law enforcement officer who has been designated by the Captain of the Port Pittsburgh (COTP) to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(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 the safety zone, contact the COTP or the COTP's representative by VHF Channel 16, or through the Marine Safety Unit Pittsburgh at (412) 221-0807.

(3) Any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or the COTP's designated representative. Any vessel that is granted permission to enter or remain in this zone by the COTP or the COTP's designated representative must proceed through the zone with caution and operate at a speed no faster than that speed necessary to maintain a safe course, unless otherwise

required by the Navigation Rules.

(d) *Effective period and enforcement period.* The safety zone in paragraph (a) of this section is in effect from July 1, 2025, through December 31, 2025. The section is subject to enforcement at all times during this period. The Coast Guard anticipates the safety zone will be enforced for approximately two days per week during daylight hours only throughout the period, but that may be adjusted based on actual demolition activities. The COTP, or a designated representative, will inform the public through written Local Notice to Mariners, and Broadcast Notice to Mariners via VHF-FM marine channel 13 or 16 of the enforcement period of the safety zone.

Dated: June 16, 2025.

Justin R. Jolley
Commander, U.S. Coast Guard,
Captain of the Port, MSU Pittsburgh

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