



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-1001]

RIN 1625-AA00

Safety Zone; Bay St. Louis, MS

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone for certain waters of St. Louis Bay. This action is necessary to provide for the safety of life on these navigable waters near Bay St. Louis, MS, during the annual Swim Across the Bay event. This rulemaking will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Mobile or a designated representative.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Lawrence J. Schad, Waterways Management Division, Sector Mobile, U.S. Coast Guard, telephone 251-441-5678, e-mail sectormobilewaterways@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

On July 11, 2024, an organization notified the Coast Guard that it will be conducting Swim Across the Bay, an annual recurring swim event that will occur on the 3rd or 4th Saturday or Sunday of September in St. Louis Bay. The Captain of the Port Sector Mobile (COTP) has determined that potential hazards associated with the swim event will be a safety concern for persons and vessels within the designated area, extending the entire width of the channel, approximately 1 mile south of the Hwy 90 Bridge in Bay St. Louis, MS.

In response, on November 14, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Bay St. Louis, MS (89 FR 89940). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this swim event. During the comment period that ended December 12, 2024, we received 2 comments. One commenter stated that the environmental analysis was not provided in the docket. The Coast Guard acknowledges that the Record of Environmental Consideration was completed on November 12, 2024, and was posted in the docket on November 14, 2024. The second commenter was generally in favor of the rule however questioned the necessity for an annual event and wondered whether law enforcement could be used in lieu of a rule. The Coast Guard finds that a safety zone provides the appropriate level of protection from potential hazards associated with this open water swim event for persons and vessels in the safety zone.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with the swim event will be a safety concern for persons and vessels within the designated area, extending the entire width of the channel, approximately 1 mile south of the Hwy 90 Bridge in Bay St. Louis,

MS. The purpose of this rule is to ensure safety of persons and vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received 2 comments on our NPRM published November 14, 2024. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone that will cover certain navigable waters at the opening of St. Louis Bay, extending the entire width of the channel, approximately 1 mile south of the Hwy 90 Bridge in Bay St. Louis, MS. The duration of the safety zone is intended to ensure the safety of persons and vessels in these navigable waters before, during and after the swim. The event will recur on an annual basis on the 3rd or 4th Saturday or Sunday of September. The exact dates and times of enforcement will be made public via a notice of enforcement prior to the event date. No vessel or person will be permitted to enter the safety zone without 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.

A. 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 for the following reasons. The safety zone will only be enforced on one day a year and we will provide advance notice of that date and time through local notice to mariners and Federal Register notice publications. The vessels can also contact the COTP for permission to transit through the safety 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 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.

B. 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).

C. 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.

D. 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.

E. 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 the establishment of a safety zone lasting one day that will prohibit entry in, out, or through the navigable waters near the opening of St. Louis Bay, extending the entire width of the channel approximately 1 mile south of the Hwy 90 Bridge in Bay St. Louis, MS annually on the 3rd or 4th Saturday or Sunday of September. 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 where indicated under the **ADDRESSES** section of this preamble.

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. 01.4.

2. In §165.801, amend Table 7, by adding in numerical order item 8 to read as follows:

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

Table 7 of § 165.801—Sector Mobile Annual and Recurring Marine Events

Date	Sponsor/Name	Sector Mobile Location	Safety Zone

8. 3 rd or 4 th Saturday or Sunday of September	Swim Across the Bay	St. Louis Bay, Bay St. Louis, MS	<p>St. Louis Bay, bounded by the following coordinates beginning at: 30°19.133' N, 89°19.317' W, thence to</p> <p>30°18.967' N, 89°17.417' W, thence to</p> <p>30°18.367' N, 89°19.650' W, thence to</p> <p>30°18.300' N, 89°17.567' W, then back to the point of origin.</p>
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M.O. Vega,
 Captain, U.S. Coast Guard
 Captain of the Port Sector Mobile

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