

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T07–0084 to read as follows:

§ 100.T07–0084 Special Local Regulation; Low Country Splash Open Water Swim, Wando River, Cooper River, and Charleston Harbor; Charleston, SC.

(a) *Location.* All waters within a moving zone, beginning at Daniel Island Pier in approximate position 32°51'20" N, 079°54'06" W, south along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49'20" N, 079°53'49" W, south along the coast of Mt. Pleasant, S.C., to Charleston Harbor Resort Marina, in approximate position 32°47'20" N, 079°54'39" W.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Sector Charleston COTP in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Sector Charleston COTP or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Sector Charleston COTP by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Sector Charleston COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Sector Charleston COTP or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 7 a.m. until 11 a.m., on September 18, 2021.

Dated: August 11, 2021.

J.D. Cole,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

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BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket Number USCG–2021–0644]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, Waxhaw, MS; MM 593–597

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Lower Mississippi River (LMR), between Mile Marker 593 and 597. The safety zone is needed to protect persons, property, and the marine environment from the potential safety hazards associated with dredging operations in the vicinity of Waxhaw, MS. Entry of persons or vessels into this zone is prohibited unless authorized by the Captain of the Port Sector Lower Mississippi River or a designated representative.

DATES: This rule is effective without actual notice from August 18, 2021 through September 15, 2021. For the purposes of enforcement, actual notice will be used from August 13, 2021 until August 18, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0644 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 MSTC Lindsey Swindle, U.S. Coast Guard; telephone 901–521–4813, email Lindsey.M.Swindle@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

CFR Code of Federal Regulations
COTP Captain of the Port
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 is issuing this temporary 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 it is impracticable. Immediate action is needed to protect persons and property from the potential safety hazards associated with dredging operations. The NPRM process would delay the establishment of the safety zone until after the date of the event and compromise public safety. We must establish this temporary safety zone immediately and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with dredging operations in the vicinity of Waxhaw, MS starting August 13, 2021.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP) Sector Lower Mississippi River (LMR) has determined that potential hazards associated with dredging operations between Mile Marker (MM) 593 and 597, scheduled to start on August 13, 2021, would be a safety concern for all persons and vessels on the Lower Mississippi River between MM 593 and MM 597 through September 15, 2021. This rule is needed to protect persons, property, infrastructure, and the marine environment in all waters of the LMR within the safety zone while dredging operations are being conducted.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from August 13, 2021 through September 15, 2021. The safety zone will cover all navigable waters of

the LMR from MM 593 to MM 597. The duration of this safety zone is intended to ensure the safety of waterway users on these navigable waters during dredging operations.

Entry of persons or vessels into this safety zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Lower Mississippi River. Persons or vessels seeking to enter the safety zones must request permission from the COTP or a designated representative on VHF-FM channel 16 or by telephone at 314-269-2332. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNM)s, and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone will temporarily restrict navigation on the LMR from MM 593 through MM 597, from August 13, 2021 through September 15, 2021. Moreover, The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the safety zone, and the rule allows vessels to seek permission to enter 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 temporary 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 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 will prohibit entry on a one-mile stretch of the Lower Mississippi River. It is categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to call or email 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.

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; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T08–0644 to read as follows:

§ 165.T08–0644 Safety Zone; Lower Mississippi River, Waxhaw, MS; MM 593–597.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River from Mile Marker (MM) 593 through MM 597.

(b) *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 Captain of the Port Sector Lower Mississippi River (COTP) or the COTP's designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Lower Mississippi River.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF–FM channel 16 or by telephone at 314–269–2332. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement period.* This section will be enforced from August 13, 2021, through September 15, 2021.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts, as appropriate.

Dated: August 13, 2021.

R.S. Rhodes,
Captain, U.S. Coast Guard, Captain of the Port Sector Lower Mississippi River.

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LIBRARY OF CONGRESS**Copyright Office****37 CFR Parts 201, 203 and 221**

[Docket No. 2021–2]

Copyright Alternative in Small-Claims Enforcement (“CASE”) Act Regulations: Expedited Registration and FOIA

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is amending its regulations to establish a new expedited registration option under the Copyright Alternative in Small-Claims Enforcement Act of 2020 and to provide a technical update to the Office's Freedom of Information Act regulations. To qualify for this expedited registration option, the work(s) being registered must be the subject of a claim or counterclaim before the Copyright Claims Board.

DATES: Effective September 17, 2021.

FOR FURTHER INFORMATION CONTACT:

Kevin R. Amer, Acting General Counsel and Associate Register of Copyrights, by email at kamer@copyright.gov; John R. Riley, Assistant General Counsel, by email at jril@copyright.gov, or Brad A. Greenberg, Assistant General Counsel, by email at brgr@copyright.gov. Each can be contacted by telephone at (202) 707–8350.

SUPPLEMENTARY INFORMATION:**I. Background****A. Statutory Framework**

On December 27, 2020, the President signed into law the Copyright Alternative in Small-Claims Enforcement (“CASE”) Act of 2020.¹ The CASE Act establishes the Copyright Claims Board (“CCB” or “Board”), a voluntary, alternative forum to federal court for parties to seek resolution of copyright disputes that have a low economic value (“small copyright claims”).² The creation of the CCB does

not displace or limit the ability to bring small copyright claims in federal court, but rather provides a more accessible alternative forum.³ The CCB has authority to hear copyright infringement claims, claims seeking a declaration of noninfringement, and misrepresentation claims under section 512(f) of title 17.⁴ Participation before the CCB is voluntary for all parties,⁵ and all determinations are non-precedential.⁶ The Copyright Office is in the process of standing up the CCB and intends to promulgate several operational and procedural rules.⁷ Congress directed the CCB to begin operations by December 27, 2021, though the Register may, for good cause, extend that deadline by not more than 180 days.⁸

Consistent with the overall goal of providing a cost-effective, streamlined alternative to federal litigation, the CASE Act includes provisions addressing the Copyright Act's registration prerequisite to filing an infringement action. In general, the owner of the copyright in a United States work may not initiate an infringement suit until the Office has issued or refused to issue a copyright registration.⁹ Additionally, the Copyright Act provides that in most instances, for a copyright owner to qualify for an award of attorneys' fees or statutory damages, the infringed work must have been registered on or before the date the infringement commenced, unless registration is made within three months after the work's first publication.¹⁰ In considering the challenges facing those involved in

³ H.R. Rep. No. 116–252, at 17; S. Rep. No. 116–105, at 2–3, 9.

⁴ 17 U.S.C. 1504(c)(1)–(3). The CCB cannot issue injunctive relief but can require that an infringing party cease or mitigate its infringing activity in the event such party agrees and the agreement is reflected in the proceeding's record. *Id.* at 1504(e)(2)(A)(i), (e)(2)(B). This provision also applies to parties making knowing material misrepresentations under section 512(f). *Id.* at 1504(e)(2)(A)(ii).

⁵ See *id.* at 1504(a); H.R. Rep. No. 116–252, at 17, 21; S. Rep. No. 116–105, at 3, 11.

⁶ H.R. Rep. No. 116–252, at 21–22, 33; S. Rep. No. 116–105, at 14.

⁷ See 86 FR 16156 (Mar. 26, 2021).

⁸ Public Law 116–260, sec. 212(d), 134 Stat. at 2199.

⁹ 17 U.S.C. 411(a) (“[N]o civil action for infringement of the copyright in any United States work shall be instituted until preregistration or registration of the copyright claim has been made in accordance with this title” or “the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused.”); *Fourth Estate Pub. Benefit Corp. v. Wall-Street.com, LLC*, 139 S. Ct. 881, 886 (2019) (holding that “registration occurs, and a copyright claimant may commence an infringement suit, when the Copyright Office registers a copyright”).

¹⁰ 17 U.S.C. 412.

¹ Public Law 116–260, sec. 212, 134 Stat. 1182, 2176 (2020).

² See, e.g., H.R. Rep. No. 116–252, at 18–20 (2019); S. Rep. No. 116–105, at 7–8 (2019). Note, the CASE Act legislative history cited is for H.R. 2426 and S. 1273, the CASE Act of 2019, a bill nearly identical to the CASE Act of 2020. See H.R. 2426, 116th Cong. (2019); S. 1273, 116th Cong. (2019). In developing the CASE Act, Congress drew on model legislation in the Office's 2013 policy report, *Copyright Small Claims*, <https://www.copyright.gov/docs/smallclaims/usco-smallcopyrightclaims.pdf> (“*Copyright Small Claims*”). Congress also incorporated the Office's report and supporting materials into the statute's legislative history. H.R. Rep. No. 116–252, at 19; S. Rep. No. 116–105, at 2.