

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

■ 2. Add § 100.111 to read as follows:

**§ 100.111 Special Local Regulation; Horsepower on the Hudson, Hudson River, Castleton-on-Hudson, NY.**

(a) *Regulated areas.* The regulations in this section apply to the following regulated areas: (1) *High speed area.* All navigable waters of the Hudson River from Hudson River Lighted Buoy 202 (LLNR 38905) to Hudson River Lighted Buoy 204 (LLNR 38910) east of the navigable channel shoreward outside of the navigational channel.

(2) *Spectator area.* All navigable waters of the Hudson River from Hudson River Lighted Buoy 201 (LLNR 38903) to Hudson River Lighted Buoy 205 (LLNR 38915) west of the navigable channel shoreward outside of the navigational channel.

(b) *Definitions.* As used in this section—

*Designated Representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the Special Local Regulation.

*Participant* means all persons and vessels registered with the event sponsor as a participant in the event.

*Spectator* means any person or vessel including human-powered craft, which is not designated by the sponsor as a support vessel, in the vicinity of the event with the primary purpose of witnessing the event. Spectator vessels can observe the marine event from the designated spectator area.

(c) *Regulations.* (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) No participant may transit at high-speed inside the high-speed zone when vessels are in or transiting through the navigational channel.

(d) *Enforcement period.* This special local regulation is in effect annually on a date and time published in the Local Notice to Mariners.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Local Notice to Mariners and Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: June 1, 2023.

**Z. Merchant,**

*Captain, U.S. Coast Guard, Captain of the Port New York.*

[FR Doc. 2023–12171 Filed 6–6–23; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

**[Docket Number USCG–2023–0355]**

**RIN 1625–AA00**

#### **Safety Zone; Kanawha River, Charleston, WV**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone for all navigable waters of the Kanawha River between mile markers 58.1 and 59.1. The safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by Captain of the Port Marine Safety Unit Huntington.

**DATES:** This rule is effective from 8:45 p.m. on June 30, 2023, through 10:15 p.m. on September 4, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0355 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 on this rule, call or email MST1 Chelsea Zimmerman, Marine Safety Unit Huntington, U.S. Coast Guard; (304)733–0198, [Chelsea.M.Zimmerman@uscg.mil](mailto:Chelsea.M.Zimmerman@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**

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 we must establish the safety zone by June 30, 2023, and lack sufficient time to request public comments and respond to these comments before the safety zone must be established. Waiting for a full comment period to run would inhibit the Coast Guard’s ability to keep the public safe from the hazards associated with a fireworks display and the ability to minimize the impact to vessel traffic on the navigable waterway.

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 the Nitro Memorial Day Celebration taking place on the Kanawha River between mile marker 43 and mile marker 44.

##### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with Live on the Levee 2023 starting June 30, 2023, will be a safety concern for anyone on the Kanawha River from mile marker 58.1 to mile marker 59.1. This rule is needed to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks display.

##### **IV. Discussion of the Rule**

This rule establishes a safety zone from 8:45 p.m. through 10:15 p.m. on June 30, 2023 with a rain date of July 1, 2023, or July 2, 2023, and a safety zone from 8:45 p.m. through 10:15 p.m. on July 4, 2023, with a rain date of September 4, 2023. The safety zone will cover all navigable waters between mile markers 58.1 and 59.1 on the Kanawha River. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or

a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF-FM channel 16, or through Marine Safety Unit Huntington at 304-733-0198. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), 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. 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 impacts a 1-mile stretch of the Kanawha River for a limited duration of less than 2 hours. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue Broadcast Notices to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission 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 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 of limited duration of less than 2 hours that will limit access of the Kanawha River from mile marker 58.1 to mile marker 59.1. 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.

### 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, 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.T08–0355 to read as follows:

### **§ 165.T08–0355 Safety Zone; Kanawha River, Charleston, WV.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Kanawha River from mile marker 58.1 to mile marker 59.1 near Haddad Riverfront Park, Charleston, WV.

(b) *Definitions.* *Designated representative* means a Coast Guard Patrol Commander (PATCOM), including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Ohio Valley (COTP) in the enforcement of the regulations in this section.

*Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) The Coast Guard may patrol the event area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign “PATCOM.”

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The “official patrol vessels” consist of any Coast Guard, state or local law enforcement and sponsor provided vessels assigned or approved by the Commander, Eighth Coast Guard District, to patrol the event.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a no wake speed in a manner which will not endanger participants in the event or any other craft.

(4) No spectator shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or

signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated area specified above, but may not anchor in, block, or loiter in a navigable channel.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) To seek permission to enter, contact the COTP or the COTP’s representative by VHF–FM marine radio channel 16 or phone at 1–800–253–7465. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(9) The COTP will provide notice of the regulated area through advanced notice via local notice to mariners and broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement periods.* (1) The safety zone described in paragraph (a) will be enforced from 8:45 p.m. through 10:15 p.m. on June 30, 2023, with a rain date of July 1, 2023, or July 2, 2023.

(2) The safety zone described in paragraph (a) will be enforced from 8:45 p.m. through 10:15 p.m. on July 4, 2023, with a rain date of September 4, 2023.

Dated: May 30, 2023.

**H.R. Mattern,**

*Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.*

[FR Doc. 2023–12151 Filed 6–6–23; 8:45 am]

**BILLING CODE P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

**[Docket Number USCG–2023–0420]**

**RIN 1625-AA00**

### **Safety Zone; Potomac River, Between Charles County, MD and King George County, VA**

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain waters of the Potomac River. This action is necessary to provide for the safety of life on these navigable waters at the old Governor Harry W.

Nice/Senator Thomas “Mac” Middleton Memorial (US–301) Bridge during demolition operations from June 10, 2023 through July 14, 2023. This rule will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

**DATES:** This rule is effective from June 7, 2023, through July 14, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0420 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 on this rule, call or email BM1 Michael Klopp, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2674, email [MDNCRWaterways@uscg.mil](mailto:MDNCRWaterways@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
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FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### **II. Background Information and Regulatory History**

On May 18, 2023, Skanska-Corman-McLean, Joint Venture, notified the Coast Guard that the company will be conducting bridge demolition operations at the old Governor Harry W. Nice/Senator Thomas “Mac” Middleton Memorial (US–301) Bridge. The work described by the contractor requires the use of explosives, and debris removal and hydrographic surveying equipment. During explosive detonation periods, there can be no marine traffic transiting near or around the bridge for safety reasons. On April 13, 2023, the Coast Guard was notified that the explosive demolition of the steel trusses would be completed no later than June 9, 2023. However, the contractor reported that due to inclement weather and explosive supply, they now anticipate being completed no later than July 14, 2023.

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