



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0411]

RIN 1625-AA00

Safety Zone; Gulf Intracoastal Waterway, Mile Marker 49.0 to 50.0, West of Harvey Locks, Bank to Bank, Bayou Blue Pontoon Bridge, Lafourche Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Gulf Intracoastal Waterway extending from Mile Marker 49.0 to Mile Marker 50.0, bank to bank, West of Harvey Locks, Terrebone Parish, LA. This Safety Zone is needed to protect the general public, vessels, and tows from destruction, loss or injury due to repairs of the Bayou Blue Pontoon Bridge and associated hazards.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until August 10, 2014. For the purposes of enforcement, actual notice will be used from June 23, 2014, until [INSERT DATE OF PUBLICATION IN THE

FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0411]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail MST1 Isaac Chavalía, U.S. Coast Guard; telephone (985)850-6456, e-mail Isaac.J.Chavalía@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
WHL	West of Harvey Locks
GIWW	Gulf Intracoastal Waterway
COTP	Captain of the Port

A. Regulatory History and Information

The Coast Guard is issuing this temporary final 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 an 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. The Coast Guard was made aware of the necessary Bayou Blue Pontoon Bridge repairs on May 6, 2014. The Coast Guard reviewed the details for the necessary bridge repairs and determined that additional safety measures are necessary during these repairs to maintain safety of navigation. Completing the full NPRM process would be contrary to public interest as it would delay the immediate action needed to protect the general public, vessel and tows from potential hazards associated with the repairs of the Bayou Blue Pontoon Bridge, Mile Marker 49.8, Gulf Intracoastal Waterway (GIWW), West of the Harvey Locks (WHL). Additionally, completing the NPRM process is impracticable and it would unnecessarily delay the bridge repairs.

For the same reasons, 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. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect the general public, vessel and tows from hazards associated with the repairs of the Bayou Blue Pontoon Bridge, Mile Marker 49.8, GIWW, WHL.

B. Basis and Purpose

The Coast Guard received notice on May 6, 2014, that the construction and repair work on the Bayou Blue, LA State Route 316, Pontoon Bridge, Mile Marker 49.8, GIWW, WHL, to repair the bridge to better serve the maritime commerce will continue through mid 2014. To protect the general public, vessels and tows from destruction, loss or injury due to the hazards associated with these construction operations in and around the waterways, the Coast Guard is establishing this temporary final safety zone which will continue through Aug 10, 2014.

The legal basis and authorities for this rulemaking establishing a safety zone are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define

regulatory safety zones.

The purpose of this safety zone is to provide additional safety measures for persons and vessels transiting in and through a specified area on the waterway and to protect life and property during the construction and repair operations on the Bayou Blue, LA State Route 316, Pontoon Bridge, Mile Marker 49.8, GIWW, WHL. There will be a work barge, support vessels and personnel present in the channel associated with the construction and repair operation. This operation poses significant safety hazards to both vessels and mariners operating in the vicinity of the Bayou Blue, LA State Route 316, Pontoon Bridge, Mile Marker 49.8, GIWW, WHL.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone in the GIWW extending from Mile Marker 49.0 to Mile Marker 50.0, bank to bank, WHL, Terrebonne Parish, LA. This Safety Zone is needed to protect the general public, vessels and tows from destruction, loss or injury due to repairs of the Bayou Blue Pontoon Bridge and associated hazards.

The COTP Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of schedule changes in the construction work and changes in effective dates and times for the safety zone. At all times, vessels and tows transiting between GIWW Mile Markers 49.0 to

50.0, WHL, are required to proceed at slowest safe speed to minimize wakes until construction is completed or August 10, 2014, whichever occurs earlier. In order to facilitate repairs, the following waterway schedule will be implemented Mondays through Fridays beginning June 23, 2014, and continuing through August 10, 2014. From 6:00 a.m. to 10:30 a.m. there will be a restricted clearance of 40 feet limiting access for all transits with the exception of small tows less than 40 feet wide and small boats. From 10:30 a.m. to 1:30 p.m. the waterway will be open to all tows with eastbound traffic allowed to transit first, followed by westbound traffic. From 1:30 p.m. to 6:00 p.m. there will be a restricted clearance of 40 feet limiting access for all transits with the exception of small tows less than 40 feet and small boats. Outside of the above schedule and on weekends, mariners will be able to transit through the work zone unrestricted. Additionally, no waterway restrictions will occur during the following holidays: Independence Day (July 4, 2014). Work to repair the fender will be performed on a crane barge staged in the channel during the closure schedule. All mariners are to contact the bridge operator on VHF-FM Channel 13 or at telephone 985-857-3666 in advance of arriving at the bridge for clearance and passing instructions. Once cleared for passage, mariners should exercise extreme caution and transit through the bridge at the slowest safe speed.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The safety zone listed in this rule will only restrict vessel traffic during construction and repair operations and enforcement periods are short in duration. The effect of this regulation will not be a significant regulatory action because: 1) this rule will only affect vessel traffic for short durations of time; 2) vessels may request permission from the HWY 316 bridge operator on VHF-FM Channel 13 or at telephone 985-857-3666 to deviate from this rule; and 3) the impacts on routine navigation are expected to be minimal due to scheduled periods without channel restrictions. Notifications to the marine community will be made through Broadcast Notice to Mariners and

Local Notice to Mariners. These notifications will allow the public to plan operations around the affected area and enforcement periods.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during 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.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in the affected portions of the GIWW in the vicinity of the Bayou Blue, LA State Route 316, Pontoon Bridge MM 49.8 WHL. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The zone is limited in size, enforcement periods are of short duration and vessel traffic may request permission from the COTP Morgan City or a designated representative to deviate from the safety zone.

If you are a small business entity and are significantly affected by this regulation, please contact MST1 Isaac Chavalia, Marine Safety Unit Houma, at (985) 850-6456

3. Assistance for Small Entities

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, above.

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.

4. 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).

5. Federalism

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 determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INTFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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. The safety zone provides safety for the public while the Bayou Blue, LA State Route 316, Pontoon Bridge MM 49.8 WHL is refurbished. This rule 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T08-0411 is added to read as follows:

§ 165.T08-0411 Safety Zone; Gulf Intracoastal Waterway, Mile Marker 49.0 to Mile Marker 50.0, West of Harvey Locks, Bank to Bank, Bayou Blue Pontoon Bridge, Lafourche Parish, LA.

(a) Location. The following area is a safety zone: all waters of the GIWW, from Mile Marker 49.0 to 50.0, WHL, bank to bank, Houma, Terrebonne Parish, LA.

(b) Enforcement Areas. Gulf Intracoastal Waterway, Mile Marker 49.0 to Mile Marker 50.0, WHL, bank to bank, Lafourche Parish, LA.

(c) Effective date. This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until August 10, 2014. For the purposes of enforcement, actual notice will be used from June 23, 2014, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(d) Regulations. (1) In accordance with the general regulations in §165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) Morgan City.

(2) Vessels requiring entry into or passage through the Safety Zone must request permission from the COTP Morgan City, the Hwy 316 bridge tender, or a designated representative. The Hwy 316 bridge tender can be contacted on VHF-FM Channel 13 or at telephone 985-857-3666 in advance of arriving for clearance and passing instructions.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP Morgan City, the Hwy 316 bridge tender, or a designated representative and pass at slowest safe speed to minimize wake.

(4) While the safety zone is in effect, there will be restricted clearance of 40 feet for marine traffic on the GIWW, from Mile Marker 49.0 to 50.0 from 6:30 a.m. to 10:30 a.m. and 1:30 p.m. to 6:00 p.m., Monday through Friday. To minimize

waterway impact, this area will be open without restriction to marine traffic from 6:00 p.m. to 6:30 a.m. and from 10:30 a.m. to 1:30 p.m. or until traffic clears, Monday through Friday.

(5) All persons and vessels shall comply with the instructions of the COTP Morgan City and designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(e) Informational Broadcasts. The COTP Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of the enforcement periods for the safety zone as well as any changes in the planned schedule.

Dated: June 20, 2014

D. G. McClellan,
Captain, U.S. Coast Guard,
Captain of the Port Morgan City, Louisiana

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Date: 07/31/2014]