

Thence back to point A. All coordinates referenced use Datum: NAD 83.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group, Charleston, SC.

(b) *Regulations.*

(1) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard Patrol Commander.

(2) The Coast Guard Patrol Commander may delay, modify, or cancel the race as conditions or circumstances require. The Coast Guard Patrol Commander shall monitor the start of the race with the race committee, to allow for a window of opportunity for the race participants to depart the harbor with minimal interference with inbound or outbound commercial traffic.

(3) Spectator and other non-participating vessels may follow the participants out to sea while maintaining a minimum distance of 500 yards behind the last participant, at the discretion of the Patrol Commander. Upon the transit of the last race participant past the outermost boundary of the Charleston jetties, all vessels may resume normal operations.

(c) This section is effective at 10 a.m. and terminates at 3 p.m. EDT on May 11, 1997.

Dated: April 1, 1997.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD08-97-008]

RIN 2115-AE84

Amendment to Regulated Navigation Area Regulations; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: On March 18, 1997, the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. On March 21, 1997, the Coast

Guard amended the temporary regulated navigation area by extending the southern limit of the regulated navigation area to the boundary of the territorial sea at the approaches to Southwest Pass and included operating requirements affecting the operation of self-propelled vessels of 1600 gross tons or greater. Increasing high water conditions caused the Coast Guard to amend this regulation for a second time on March 28, 1997 to establish additional safety measures applicable to U.S. flagged and foreign-flagged vessels authorized to carry cargoes listed under Title 46, Code of Federal Regulations Part 151 (chemical barges) and Parts 153-154 (chemical and gas ships). The recent loss of control of a tow as it entered the Mississippi River from the Port Allen lock and several near-misses involving tows longer than 600 feet exiting locks into the Mississippi River has evidenced the need to further limit the length of tows. For this reason the district commander is further amending this regulation. The amendment prohibits tows in excess of 600 feet from entering or exiting lock forebays.

The amendment also clarifies the horsepower restrictions in the earlier regulation to make it clear that the horsepower rating of escort tugs may not be counted in establishing the number of barges that may be included in a tow. Only the horsepower rating of the single towboat made up to and pushing the tow may be considered in determining the maximum number of barges that may be included in the tow.

The Coast Guard is also extending the effective date of the regulation to April 20, 1997, because the high water conditions are expected to last longer than originally contemplated. The regulated navigation area is needed to protect vessels, bridges, shore-side facilities and the public from a safety hazard created by high water and resulting flooding along the Lower Mississippi River. Downbound barge traffic, chemical ships and gas ships, as well as self-propelled vessels of 1600 or more gross tons are prohibited from operating in this area unless they are in compliance with this regulation.

DATES: This amended regulation is effective at 11:00 a.m. on April 4, 1997 and terminates at 12 p.m. on April 20, 1997.

FOR FURTHER INFORMATION CONTACT:

CDR Harvey R. Dexter, Marine Safety Division, USCG Eighth District at New Orleans, LA (504) 589-6271.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On March 18, 1997 (62 FR 14637, March 22, 1997), the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. On March 21, 1997 (62 FR 15398, April 1, 1997), the Coast Guard amended the temporary regulated navigation area by extending the southern limit of the regulated navigation area to the boundary of the territorial sea at the approaches to Southwest Pass and included operating requirements affecting the operation of self-propelled vessels of 1600 gross tons or greater. Increasing high water conditions caused the Coast Guard to amend this regulation for a second time on March 28, 1997 (62 FR 16081 April 4, 1997) to establish additional safety measures applicable to U.S. flagged and foreign-flagged vessels authorized to carry cargoes listed under Title 46, Code of Federal Regulations Part 151 (chemical barges) and parts 153-154 (chemical and gas ships). The recent loss of control of a tow as it entered the Mississippi River from the Port Allen lock and several near-misses involving tows longer than 600 feet exiting locks into the Mississippi River has evidenced the need to further limit the length of tows. For this reason the district commander is further amending this regulation. The amendment prohibits tows in excess of 600 feet from entering or exiting lock forebays.

Although Mississippi River floodwater levels have receded somewhat, river current remains at a record high level. The recent loss of control of a tow as it entered the Mississippi River from the Port Allen lock and several near-misses involving tows longer than 600 feet exiting locks into the Mississippi River has evidenced the need to further limit the length of tows. By limiting the maximum length of tows during the critical period when they are entering or exiting locks along the Mississippi River to or from the relatively still water of a lock forebay, towboats will be able to exercise greater control of the tow during this critical period. This amendment prohibits tows in excess of 600 feet from entering or exiting lock forebays.

This amendment also clarifies the horsepower restrictions in the earlier regulation to make it clear that the horsepower rating of escort tugs may not be counted in establishing the number of barges that may be included in a tow. Only the horsepower rating of the single towboat made up to and pushing the

tow may be considered in determining the maximum number of barges that may be included in the tow. The Coast Guard is also extending the effective date of the regulation to April 20, 1997, because the high water conditions are expected to last longer than originally contemplated.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of notice of proposed rulemaking and delay of effective date would be contrary to public interest because immediate action is necessary to ensure self-propelled vessels are capable of operating safely in the increased currents present on the river and prevent downbound towing vessels from colliding with bridges and shore-side structures, and colliding with other vessels, causing danger to the public.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

For the reasons expressed below (Small Entities), the Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Small entities may include small towing companies that could be affected by this rule. This amendment may require tows to be divided and reassembled when transiting through locks in order not to exceed the 600 foot tow length restriction. This is a minimal constraint on operations since it only limits tow lengths for the short transit time needed

to clear locks. The 600 foot limitation has been arrived at following consultation with trade groups and industry representatives who concur that it is reasonable and prudent. Therefore, these requirements are consistent with accepted industry practice, impose minimal financial burdens, and are consistent with the actions of prudent operators under the circumstances. The clarification indicating that assist tugs may not be used when calculating brake horsepower to meet the brake horsepower requirements does not impose additional requirements on industry. It is merely illustrative and clarifies the previous regulation. This rule is deemed to not have a substantial economic impact.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2. (g)(5) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (waters), Reporting and record keeping requirements, Safety measures, and Waterways.

Temporary Regulations

For the reasons set out in the preamble the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 46 CFR 1.46.

2. In § 165.T08–001, paragraphs (b)(1), (b) (6), through (14), and (c) are revised to read as follows:

§ 165.T08–001 Regulated Navigation Area; Lower Mississippi River.

* * * * *

(b) * * *

(1) In accordance with general regulations in § 165.11 of this part, no downbound towboat with tow may operate within the regulated navigation area contrary to this regulation. When calculating towboat brake horsepower limitations, assist tug brake horsepower shall not be included in the calculations in order to meet the minimum requirements.

* * * * *

(6) The length of tows entering or exiting lock forebays shall not exceed 600 feet excluding the length of the towboat.

(7) For purposes of this section, "chemical barges" are defined as barges authorized to carry cargoes listed under 46 CFR Part 151 (Subchapter O).

(8) Chemical barges maintained in a fleeting area shall be placed in a protected position within the fleet.

(9) Whenever possible, shifting of chemical barges within a fleeting area shall be limited to daylight hours.

(10) Upbound and downbound tows containing chemical barges shall place them in the most protected position within the tow configuration.

(11) For purposes of this section, "chemical ships" are defined as U.S. flagged or foreign-flagged vessels subject to the requirements of 46 CFR Part 153 (Subchapter O).

(12) For purposes of this section, "gas ships" are defined as U.S. flagged or foreign-flagged vessels subject to the requirements of 46 CFR Part 154 (Subchapter O).

(13) Downbound chemical or gas ships operating on the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 78 above Head of Passes shall only transit during daylight hours.

(14) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

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(c) Effective dates: This section is effective at 11:00 a.m. on April 4, 1997 and terminates at 12 p.m. on April 20, 1997.

Dated: April 4, 1997.

Timothy W. Josiah,
Rear Admiral, U.S. Coast Guard Commander,
Eighth Coast Guard District.

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