

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. CGD08-07-010]

RIN 1625-AA11

#### Regulated Navigation Area; Cumberland River, Clarksville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is extending the time period for a Regulated Navigation Area (RNA) on the Cumberland River (CMR) mile marker (MM) 126 to mile marker MM 127. All vessel traffic transiting beneath the R. J. Corman Railroad Bridge at MM 126.5 is restricted to the right descending bank (RDB) on the CMR and tows transiting this RNA cannot be wider than 80 feet or longer than 800 feet, excluding the length of the tow boat. The original RNA ended August 2, 2007. This rule extends the ongoing RNA from September 4 to October 31, 2007.

**DATES:** This temporary rule is effective from 4 p.m. on August 31, 2007 through 11:30 a.m. October 31, 2007.

**ADDRESSES:** The Coast Guard is not soliciting comments on this temporary RNA. However, you may mail comments and related material to Coast Guard Sector Ohio Valley, 600 Martin Luther King Drive, Louisville, KY 40202, attention: Prevention Department. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Sector Ohio Valley between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR Phillip Ison, Coast Guard Sector Ohio Valley, telephone (502) 779-5448.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

The Coast Guard originally established this RNA on April 17, 2007. We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 United States Code (USC) 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective immediately. The R. J. Corman Railroad Bridge on the Cumberland River was struck by a barge and was severely damaged. Repairs to this bridge

have not been completed. This RNA continues to be needed to prevent further damage to the bridge and to protect vessels transiting under the bridge.

#### Background and Purpose

On March 29, 2007 at approximately 11:15 p.m., the R. J. Corman Railroad Bridge, located at MM 126.5 on the Cumberland River (CMR) was struck by a barge being pushed by a towing vessel. The bridge sustained extensive damage. The Coast Guard set a safety zone at 7 p.m. on March 30, 2007 on the CMR from MM 126 through MM 127 halting all vessel traffic until the structural integrity of the bridge was evaluated. The operator of the bridge reported to the Coast Guard that the bridge damage was isolated to the left descending bank (LDB) bridge pier of the bridge above the waterline. The bridge operator also informed the Coast Guard that vessels could safely transit under the bridge on the right descending bank (RDB) of the CMR. The Coast Guard is restricting vessel movements to the RDB and is limiting tow sizes to ensure that vessels pass safely under the bridge and do not cause additional damage to the bridge. Bridge repairs were estimated to have been completed by early August 2007; however, repair work will not be completed until late October 2007.

#### Discussion of Rule

The Coast Guard is establishing a Regulated Navigation Area (RNA) on the CMR mile marker (MM) 126 to mile marker MM 127. All vessel traffic transiting beneath the R. J. Corman Railroad Bridge at MM 126.5 is restricted to the RDB on the CMR and tows transiting this RNA cannot be wider than 80 feet or longer than 800 feet, excluding the length of the tow boat. This RNA is effective from 4 p.m. on August 31, 2007 through 11:30 a.m. October 31, 2007. This RNA may be cancelled earlier if the Coast Guard determines that it is safe for vessel traffic to transit under the bridge span adjacent to the LDB.

#### 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 costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. Commercial vessel traffic including tow and barge traffic is being allowed to move through this RNA and this RNA

will be cancelled when the Coast Guard determines that it is safe to open traffic to both sides of the R. J. Corman Railroad Bridge.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 would not have a significant economic impact on a substantial number of small entities. This RNA will not have an impact on a substantial number of small entities because this rule will not significantly impact the regular flow of commercial vessel traffic conducting business within the RNA. Further, the RNA will not have a significant impact because it will be in place for a limited period of time.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to Coast Guard Sector Ohio Valley at the address listed under **ADDRESSES** explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 Sector Ohio Valley at (502) 779-5412.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and

would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### 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 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

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

#### 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.

#### 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 might disproportionately affect children.

#### 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.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action”

under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits in paragraph (34)(g) because it is a regulated navigation area. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**.

#### 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–826 to read as follows:

#### § 165.T08–826 Cumberland River, TN-regulated navigation area.

(a) The following is a Regulated Navigation Area (RNA): all waters of the Cumberland River (CMR) from MM 126 CMR to MM 127 CMR.

(b) Within the RNA described in paragraph (a), vessels are restricted to the right descending bank (RDB) of the Cumberland River and tows cannot be wider than 80 feet or longer than 800 feet, excluding the length of the tow boat.

(c) This rule is effective from 4 p.m. on August 31, 2007 through 11:30 a.m. October 31, 2007.

Dated: September 7, 2007.

**J.H. Korn,**

*Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.*

[FR Doc. 07–4857 Filed 10–1–07; 8:45am]

BILLING CODE 4910–15–P

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 1, 22, 24, 27, and 90

[WT Docket No. 06–150; CC Docket No. 94–102; WT Docket No. 01–309; WT Docket No. 03–264; WT Docket No. 06–169; PS Docket No. 06–229; WT Docket No. 96–86; FCC No. 07–171]

#### Service Rules for the 698–806 MHz Band and Revision of the Commission’s Rules Regarding Enhanced 911 Emergency Calling Systems, Wireless Radio Services, Hearing Aid-Compatible Telephones, and Public Safety Spectrum Requirements

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document summarizes an Order on Reconsideration adopted by the Commission in this proceeding. The Order on Reconsideration announces changes to the composition of the governing board of the Public Safety Broadband Licensee (the board) as set forth in the Commission’s 700 MHz Second Report and Order (22 FCC Rcd