

33 CFR Part 165

[CCGD08-97-008]

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 (62 FR14637, March 27, 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 FR15398, 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 are causing the Coast Guard to amend for a second time the regulation 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 Coast Guard is also extending the effective date of the regulation to April 10, 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, and the transmitting of self-propelled vessels of 1600 or more gross tons and chemical and gas ships are prohibited from entering this area unless they are in compliance with this regulation.

EFFECTIVE DATES: This amended regulation is effective at 12:00 p.m. on March 29, 1997 and terminates at 12 p.m. on April 10, 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**

The velocity of river currents on the Lower Mississippi River is approaching

an all time high. Several recent vessel allisions with bridges, one of which involved a chemical barge, and barge breakaways, including one involving 134 barges from two barge fleetling facilities, have been caused by strong currents and eddies resulting from flood conditions on the Lower Mississippi River. The Commander, Eighth Coast Guard District has already placed operating restrictions on tows downbound on the Mississippi River to assure adequate safe power for navigation, and additional operating requirements on self-propelled vessels of 1600 or more gross tons operating anywhere within the Regulated Navigation Area (RNA). The district commander is now establishing requirements for fleetling operations in which chemical barges are maintained. In addition, these new regulations will establish requirements for both upbound and downbound tows containing chemical barges, and for downbound chemical or gas ships operating on the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 78 above Head of Passes. Downbound chemical or gas ships will be limited to daylight transit only. This amended emergency Temporary Regulated Navigation Area extends from one mile above the Interstate 20 Highway Bridge at Vicksburg, Mississippi (Lower Mississippi River Mile 437), to the boundary of the territorial sea at the approaches to Southwest Pass.

For purposes of this amended regulation, "chemical barges" are defined as barges authorized to carry cargoes listed under Title 46, Code of Federal Regulations § 151 (Subchapter O); "chemical ships" are defined as U.S. flagged or foreign-flagged vessels subject to the requirements of Title 46, Code of Federal Regulations, part 153 (Subchapter O); and "gas ships" are defined as U.S. flagged or foreign-flagged vessels subject to the requirements of Title 46, Code of Federal Regulations, part 154 (Subchapter O).

This amended regulation requires that chemical barges maintained in a fleetling area be placed in a protected position within the fleet.

Whenever possible, shifting of chemical barges within a fleetling area shall be limited to daylight hours.

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

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.

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 alliding 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 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 in this case would not include a significant number of companies operating chemical or gas ships due to the nature and cost of operating vessels of this size. However, it could include small towing companies that may be affected by this rule. This amendment requires towing operations to place chemical barges in the most protected position within the tow configuration. This is not a constraint on operation since it does not limit the type or kind of barges within a tow, but merely requires prudence when configuring a tow. No additional restrictions on

transit for towing operations are imposed by this amendment. This regulation may also affect fleet operators by requiring that chemical barges be moored in a protected position within the fleet. The regulation also requires that, if chemical barges are to be shifted in a fleeting area, when possible they be shifted during the day. These requirements are consistent with accepted industry practice, impose minimal financial burdens, and are consistent with the actions of prudent operators under the circumstances. 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 recordkeeping 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:

PART 165—[AMENDED]

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 Section 165.T08–001 paragraph (b)(8) is revised; paragraphs (b)(9), (b)(10), (b)(11), (b)(12), (b)(13), (b)(14), and (b)(15) are added; and paragraph (c) is revised to read as follows:

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

* * * * *

(b) * * *

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

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

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

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

(12) 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).

(13) 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).

(14) 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.

(15) 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).

(c) *Effective dates.* This section is effective at 12:00 p.m. on March 29, 1997 and terminates at 12 p.m. on April 10, 1997.

Dated: March 28, 1997.

Timothy W. Josiah,

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5807–3]

Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Under section 211(k)(6) of the Clean Air Act, as amended (Act), the

Administrator of EPA shall require the sale of reformulated gasoline in an ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe upon the application of the governor of the state in which the nonattainment area is located. On February 18, 1997, EPA issued a direct final rule (62 FR 7164) setting an effective date for the Phoenix ozone nonattainment area to be a covered area in the federal reformulated gasoline (RFG) program. In this action EPA is withdrawing the direct final rule because subsequent to publication, EPA received several requests for a hearing.

DATES: This action will be effective March 31, 1997.

ADDRESSES: Materials relevant to the direct final rule have been placed in Docket A–97–02. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall.

Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material. An identical docket is also located in EPA's Region IX office in Docket A–AZ–97. The docket is located at 75 Hawthorne Street, AIR–2, 17th Floor, San Francisco, California 94105. Documents may be inspected from 9:00 a.m. to noon and from 1:00–4:00 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Janice Raburn at U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233–9000.

SUPPLEMENTARY INFORMATION: The preamble, regulatory language and regulatory support document are also available electronically from the EPA internet Web site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer per the following information. The official **Federal Register** version is made available on the day of publication on the primary internet sites listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary Web site listed below and on the TTN BBS.