

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket No. USCG–2011–0528]

RIN 1625–AA00

Safety Zone; Big Sioux River From the Military Road Bridge North Sioux City to the Confluence of the Missouri River, SD**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule; change of effective period.

SUMMARY: The Coast Guard is extending the effective period for the temporary safety zone restricting navigation on the Big Sioux River from the Military Road Bridge in North Sioux City, South Dakota to the confluence of the Missouri River and extending the entire width of the river. Temporary section 33 CFR 165.T11–0511, which established the temporary safety zone, was set to expire August 30, 2011. Extending the effective period for this safety zone provides continued and uninterrupted protection of levees and personnel involved in ongoing high water response. Continuing the safety zone will significantly reduce the threat of destruction to levees. Additionally, to avoid duplicative temporary section numbers, section 33 CFR 165.T11–0511 is redesignated as 33 CFR 165.T11–0528.

DATES: The temporary safety zone added at 76 FR 38013, June 29, 2011, effective from June 2, 2011 until August 30, 2011, will continue in effect through October 31, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0528 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0528 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 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 about this notice, call or e-mail Lieutenant Commander (LCDR) Scott Stoermer, Sector Upper Mississippi River, Coast Guard at (314) 269–2540 or Scott.A.Stoermer@uscg.mil.

SUPPLEMENTARY INFORMATION:**Regulatory 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 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 an NPRM. This rule extends the existing temporary safety zone on the Big Sioux River from the Military Road Bridge in North Sioux City, SD at 42.52 degrees North, 096.48 degrees West longitude to the confluence of the Missouri River at 42.49 degrees North, 096.45 degrees West longitude and extending the entire width of the river, which is currently set to expire on August 30, 2011. This extension is necessary to continue uninterrupted protection of levees and personnel involved in ongoing high water response.

Failing to extend the effective dates for this rule pending completion of notice and comment rulemaking is impracticable and contrary to the public interest because it would cause a gap in the ability to enforce the needed safety zone for protection of all responders, the response efforts, and the environment. 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**.

Basis and Purpose

The safety zone in place pursuant to the Temporary Final Rule at docket USCG–2011–0528 (76 FR 38013, June 29, 2011) established a temporary safety zone for the flooding on the Big Sioux River from June 2, 2011 through August 30, 2011. The safety zone was enforced through actual notice from June 2, 2011 until June 28, 2011. The rule published in the **Federal Register** on June 29, 2011 to ensure seamless protection of those involved in the response efforts. This rule extends the existing temporary safety zone on the Big Sioux River from the Military Road Bridge in North Sioux City to the confluence of the Missouri River and extending the entire width of the river, which is currently set to expire on August 30, 2011. The temporary safety zone created by this rule ensures that there is no gap in authority to protect all responders, and levees.

Discussion of Rule

The Coast Guard is extending the effective date of a safety zone encompassing the Big Sioux River from the Military Road Bridge in North Sioux City, South Dakota at 42.52 degrees North, 096.48 degrees West longitude to the confluence of the Missouri River at 42.49 degrees North, 096.45 degrees West longitude and extending the entire width of the river.

During enforcement periods, vessels and tows may not enter this zone unless authorized by the Captain of the Port Sector Upper Mississippi River. Emergency response boats or vessels may enter these waters when responding to emergent situations on or near the river. The Captain of the Port Sector Upper Mississippi River will inform the public through broadcast notices to mariners and/or marine safety information bulletins when enforcement periods are in place and of all safety zone changes. When enforcement is implemented, vessels currently in the safety zone will be provided opportunity to safely exit the restricted area.

Additionally, the 33 CFR section number assigned to this temporary safety zone has the same 33 CFR section number as an existing temporary safety zone added by USCG–2011–0511 (76 FR 37649, June 28, 2011). To avoid duplicative temporary section numbers, section 33 CFR 165.T11–0511 associated with this safety zone in place pursuant to the temporary final rule at docket USCG–2011–0528 (76 FR 38013, June 29, 2011) is redesignated as 33 CFR 165.T11–0528.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

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 that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

Notifications to the marine community will be made through broadcast notices to mariners and/or

marine safety information bulletins. Vessels requiring entry into or passage through the Safety Zone may request permission from the Captain of the Port Sector Upper Mississippi, or a designated representative and entry will be evaluated on a case-by-case basis to minimize impact and protect the general public, levee system, vessels from destruction, and loss or injury due to the hazards associated with flood water. The impacts on routine navigation are expected to be minimal.

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.

This Safety Zone is not expected to have a significant economic impact on a substantial number of small entities because vessels may request permission to transit the area from the Captain of the Port Sector Upper Mississippi, or a designated representative, for passage through the Safety Zone. Passage through the safety zone will be evaluated on a case-by-case basis to minimize impact and protect the general public, levee system, vessels from destruction, and loss or injury due to the hazards associated with flood water. If you are a small business entity and are significantly affected by this regulation, please contact LCDR Scott Stoermer, Sector Upper Mississippi River, Coast Guard at (314) 269–2540.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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.

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 (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.

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.

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 may 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it 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 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 concluded 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 is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation since implementation of this action will not result in any significant cumulative

impacts on the human environment; does not involve a substantial change to existing environmental conditions; and is consistent with Federal, State, and/or local laws or administrative determinations relating to the environment. This rule involves establishing a temporary safety zone.

Pursuant to paragraph (34)(g) of the Instruction, an environmental checklist and a categorical exclusion checklist are available in the docket 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—SAFETY ZONES

■ 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, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Redesignate section 165.T11–0511 temporarily added at 76 FR 38013, June 29, 2011, as section 165.T11–0528, effective from June 2, 2011 to August 30, 2011, and will continue in effect through October 31, 2011.

Dated: August 18, 2011.

B.L. Black,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0691]

RIN 1625–AA00

Safety Zone; ESI Ironman 70.3 Augusta Triathlon, Savannah River, Augusta, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Savannah River in Augusta, Georgia during the ESI Ironman 70.3 Augusta Triathlon on Sunday, September 25, 2011. The

temporary safety zone is necessary for the safety of the race participants, participant vessels, spectators, and the general public during the 1.1 mile swim portion of the competition. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Savannah or a designated representative.

DATES: This rule is effective from 7 a.m. until 11:59 a.m. on September 25, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0691 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0691 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 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 temporary final rule, call or e-mail Marine Science Technician Third Class Timothy R. Estep, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone 912–652–4353, e-mail Timothy.R.Estep@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory 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 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 the Coast Guard did not receive necessary information regarding the ESI Ironman 70.3 Augusta Triathlon until July 7, 2011. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because

immediate action is needed to minimize the potential danger to the race participants, participant vessels, spectators, and the general public.

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**. Immediate action is necessary in order to restrict vessel movement and ensure maritime public safety during this event.

Basis and Purpose

The legal basis for the rule is the Coast Guard’s authority to establish regulated navigation areas and other limited access areas: 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, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safety of the swimmers, participant vessels, spectators, and the general public during the ESI Ironman 70.3 Augusta Triathlon.

Discussion of Rule

On Sunday, September 25, 2011, the ESI Ironman 70.3 Augusta Triathlon is scheduled to take place in Augusta, Georgia. This event includes a 1.1 mile swim that will take place on the waters of the Savannah River. The swim starts at the 6th Street Railroad Bridge and finishes at Mile Post 198.

The safety zone encompasses certain waters of the Savannah River in Augusta, Georgia. The safety zone will be enforced from 7 a.m. until 11:59 a.m. on September 25, 2011. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Savannah or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Savannah by telephone at 912–652–4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.