

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

[Docket No. USCG–2011–0511]

RIN 1625–AA00

Safety Zone; Missouri River From the Border Between Montana and North Dakota**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the specified waters of the Missouri River from the Montana and North Dakota border to the confluence with the Mississippi River, extending the entire width of the river. During enforcement periods, vessels must obtain Captain of the Port authorization to enter the safety zone. This temporary safety zone is needed to protect the general public, vessels and tows from destruction, and the levee system from destruction, loss or injury due to hazards associated with rising flood water. Operation in this zone is restricted unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: Effective Date: this rule is effective in the CFR from June 28, 2011 until 11:59 p.m. CDT August 30, 2011, unless terminated earlier. This rule is effective with actual notice for purposes of enforcement beginning 12:01 a.m. CDT June 2, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0511 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0511 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. Documents will also be available for inspection or copying at Coast Guard Sector Upper Mississippi River, 1222 Spruce Street Suite 7.103, St. Louis, MO 63103 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary

rule, 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 a notice of proposed rulemaking (NPRM) with respect to this rule because it would be contrary to public interest to publish an NPRM as immediate action is necessary to protect the public and property from the dangers associated with flooding emergencies.

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**. Delaying its effective date would be contrary to public interest because immediate action is needed to protect vessels and mariners from the safety hazards associated with flooding emergencies.

Basis and Purpose

On June 1, 2011, the Captain of the Port Upper Mississippi River deemed navigation on the Missouri River unsafe due to severe flooding and has restricted navigation on the Missouri River, from the border between Montana and North Dakota at 104.05 degrees west longitude to the confluence with the Mississippi River at 90.11 degrees West longitude and extending the entire width of the river. Entry into this zone is prohibited during enforcement periods unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative. Emergency response boats or vessels may enter these waters when responding to emergent situations on or near the river.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for the Missouri River from the border between Montana and North Dakota at 104.05 degrees west longitude to the confluence with the Mississippi River at 90.11 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. This rule is effective from 12:01 a.m. CDT June 2, 2011 until 11:59 p.m. CDT August 30, 2011, unless terminated earlier. This safety zone will be enforced when high water conditions pose a danger to navigation, the levee system, and the general public. 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.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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, and vessels from destruction, loss or injury due to the hazards associated with rising 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.

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 waters of the Missouri River from the border between Montana and North Dakota at 104.05 degrees west longitude to the confluence with the Mississippi River at 90.11 degrees West longitude extending the entire width of the river on and after 12:01 a.m. CDT June 2, 2011, unless terminated earlier. This temporary 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, and vessels from destruction, loss or injury due to the hazards associated with rising 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 offered to assist small entities in understanding the rule so they could 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 businesses. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

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 will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect 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 Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA).

This rule involves establishing a temporary safety zone in an emergency situation and will be in effect for over one week. An environmental analysis checklist and a categorical exclusion determination will be provided and made available at the docket as indicated in the **ADDRESSES** section.

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. A new temporary § 165.T11–0511 is added to read as follows:

§ 165.T11–0511 Safety Zone; Missouri River from the border between Montana and North Dakota

(a) *Location.* The following area is a temporary safety zone: Waters of the Missouri River from the border between Montana and North Dakota at 104.05 degrees west longitude to the confluence with the Mississippi River at 90.11 degrees West longitude and extending the entire width of the river.

(b) *Effective date.* From June 2, 2011 through August 30, 2011, unless terminated earlier.

(c) *Periods of Enforcement.* This rule will be enforced during dangerous flooding conditions occurring between 12:01 a.m. CDT June 2, 2011 and 11:59 p.m. CDT August 30, 2011. The Captain of the Port Sector Upper Mississippi River will inform the public through broadcast notice to mariners and/or marine safety information bulletins when enforcement is implemented and of any changes to safety zone. Vessels within the safety zone will be allowed to safely exit the area upon enforcement of this safety zone.

(d) *Regulations.* (1) In accordance with the general regulations in 33 CFR part 165, subpart C, operation in this zone is restricted unless authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

(2) Vessels requiring entry into or passage through the Safety Zone must request permission from the Captain of the Port Sector Upper Mississippi River, or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at 314–269–2332.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Sector Upper Mississippi River or their designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: June 2, 2011.

S. C. Teschendorf,

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

[FR Doc. 2011–16096 Filed 6–27–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2011–0404]

Safety Zone; Northern California Annual Fireworks Events, Independence Day Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the annual Independence Day Fireworks (Kings Beach 4th of July Fireworks) safety zone. This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 7 a.m. through 10 p.m. on July 3, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Lieutenant Junior Grade Liezl Nicholas, U.S. Coast Guard, Waterways Safety Division; telephone 415–399–7443, e-mail *D11–PF–MarineEvents@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Kings Beach 4th of July Fireworks in 33 CFR 165.1191 on July 3, 2011, from 7 a.m. through 10 p.m. The fireworks launch site is approximately 800 feet off the shore line of Kings Beach in position 39°13'55.37" N, 120°01'42.26" W (NAD83). The safety zone encompasses the navigable waters within a 1,000 ft radius of the launch site.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction

issued by an official patrol vessel shall obey the order of direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of this enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 16, 2011.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

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BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2011–0406]

Safety Zone; Northern California Annual Fireworks Events, July 4th Fireworks Display

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zone for the annual July 4th Fireworks Display (Tahoe City 4th of July Fireworks Display). This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 7 a.m. through 10 p.m. on July 4, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Lieutenant Junior Grade Liezl Nicholas U.S. Coast Guard; telephone 415–399–7443, e-mail *D11–PF–MarineEvents@uscg.mil*.