



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0791]

RIN 1625-AA00

Safety Zone; University of Alabama vs. University of Alabama at Huntsville Rowing Competition; Black Warrior River mm 339 to mm 341.65; Tuscaloosa, AL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing the waters of the Black Warrior River, Tuscaloosa, AL from mm 339 to mm 341.65. This action is necessary for the protection of persons and vessels on navigable waters during the University of Alabama (U of AL) vs. University of Alabama at Huntsville (UAH) Rowing Competition. Entry into or transiting in this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port (COTP) Mobile or a designated representative.

DATES: This rule is effective on September 27, 2014 from 9:00 am to 11:30 a.m.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0791. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 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 rule, call or e-mail LT Stanley A. Tarrant, Sector Mobile, Waterways Management Division, U.S. Coast Guard; telephone 251-441-5940, e-mail Stanley.A.Tarrant@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

APA	Administrative Procedures Act
BNM	Broadcast Notice to Mariners
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register

LNM                      Local Notice to Mariners  
NPRM                     Notice of Proposed Rulemaking  
mm                        Mile marker

A. Regulatory History and 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)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because there is insufficient time to publish an NPRM. The Coast Guard received notification on August 20, 2014 from the University of Alabama Women's Rowing team with intentions to conduct a rowing competition on the Black Warrior River in Tuscaloosa, AL on September 27, 2014. After reviewing the details of the event, the Coast Guard determined that additional safety measures are necessary during this rowing competition on the Black Warrior River. A temporary safety zone is being established to provide for the safety of participants, spectators, and other waterway users during

this rowing competition. Publishing a NPRM is contrary to public interest because it would unnecessarily delay the required safety zone's effective date. Additionally, delaying the safety zone for the NPRM process would unnecessarily interfere with the scheduled rowing competition.

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. Delaying the effective date to provide a full 30 days' notice is contrary to public interest because immediate action is needed to protect persons and vessels from safety hazards associated with a rowing competition on the Black Warrior River.

#### B. Basis and Purpose

The legal basis and authorities for this rule are found in 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, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones.

The University of Alabama Women's Rowing Team will conduct a rowing competition on the Black Warrior River in

Tuscaloosa, AL on September 27, 2014. The rowing competition will consist of 12 row boats on the race course at a time. These row boats will impede normal vessel traffic which poses significant safety hazards to the rowers and other vessels and mariners during the course of the race on the Black Warrior River. The COTP Mobile is establishing a temporary safety zone encompassing the waters of Black Warrior River, Tuscaloosa, AL from mm 339 to mm 341.65, to protect persons and vessels, during the rowing competition in Tuscaloosa, AL.

The COTP anticipates minimal impact on vessel traffic due to this regulation. However, this safety zone is deemed necessary for the protection of life and property within the COTP Mobile zone.

### C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone encompassing the waters of Black Warrior River, Tuscaloosa, AL from mm 339 to mm 341.65. This temporary rule will protect the safety of life and property in this area. Entry into or transiting in this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the COTP Mobile or a designated representative. The COTP may be contacted by telephone at 251-441-5976.

The COTP Mobile or a designated representative will inform the public through broadcast notice to mariners (BNM) of changes in the effective period for the safety zone. This rule will be enforced for a short period during the rowing competition occurring on September 27, 2014 between the hours of 9:00 am and 11:30 a.m. BNMs will be used to inform waterway users of the exact enforcement times and any changes in this safety zones or its enforcement on the day of the rowing competition, September 27, 2014.

#### D. Regulatory Analyses

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

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

The safety zone listed in this rule will restrict vessel traffic from entering or transiting in a small portion of Black Warrior River, Tuscaloosa, AL. The effect of this regulation will not be significant for several reasons: 1) this rule will only affect vessel traffic for a short duration; 2) vessels may request permission from the COTP Mobile or a designated representative to transit through the safety zone; and 3) impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through BNMs. These notifications will allow the public to plan operations around the affected area.

## 2. Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 in the affected portions of Black Warrior River during the rowing competition on the morning of September 27, 2014 between 9:00 and 11:30 a.m. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The zone is limited in size, is of short duration and vessel traffic may request permission from the COTP Mobile or a designated representative to enter or transit through the zone.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. 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 the person listed in the FOR FURTHER INFORMATION CONTACT, above.

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.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be

received without jeopardizing the safety or security of people, places, or vessels.

#### 7. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. 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.

#### 9. 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.

#### 10. 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.

#### 11. 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.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

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

#### 14. 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 determined that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone on a waterway during a rowing competition and is not expected to result in any significant adverse environmental impact as described in NEPA. This rule is categorically excluded from further review under paragraph (34)(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a categorical exclusion determination will be made available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### 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. 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. A new temporary § 165.T08-0791 is added to read as follows:

§ 165.T08-0791 Safety Zone; University of Alabama vs. University of Alabama at Huntsville Rowing Competition; Black Warrior River mm 339 to mm 341.65; Tuscaloosa, AL.

(a) Location. The following area is a safety zone: all waters, surface to bottom, extending the entire width of the Black Warrior River, Tuscaloosa, AL from mm 339 to mm 341.65.

(b) Effective dates and enforcement period. This section is effective on September 27, 2014. Broadcast notices to mariners will be used to inform the public of specific enforcement times expected to occur between the

hours of 9:00 am and 11:30 a.m.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) Persons or vessels desiring to enter into or passage through the zone must request permission from the Captain of the Port Mobile or a designated representative. They may be contacted on VHF-FM channels 16 or by telephone at 251-441-5976.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port Mobile or designated representative.

(d) Informational Broadcasts. The Captain of the Port Mobile or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the safety zone or the planned schedule.

Dated: August 26, 2014

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S. WALKER  
Captain, U. S. Coast Guard  
Captain of the Port Mobile

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