DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2021-0547]

RIN 1625-AA08

Special Local Regulation; Tennessee River miles 648 to 650; Knoxville, TN

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation on the Tennessee River from MM 648 to 650 on August 1, 2021 from 7 a.m. to 11 a.m. This special local regulation is needed to protect personnel, vessels, and the marine environment from potential hazards created during the high speed races associated with the K-Town on the River triathlon marine event. Entry into the safety zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP).

DATES: This rule is effective from 7 a.m. to 11 a.m. on August 1, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to https://www.regulations.gov, type USCG-2021-0547 in the search box and click "Search." Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Nicholas Jones, U.S. Coast Guard; telephone 615-736-5421, email Nicholas.J.Jones@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations
II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 is impracticable. We must establish this regulation by August 1, 2021, and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule.

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 of this rule would be contrary to public interest because of the safety concerns for the participants in the K-Town on the River triathlon taking place on August 1, 2021.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that there are safety concerns for the participants of the K-Town on the River Triathlon due to the normal influx of both commercial and recreational vessel traffic. This rule is needed to protect participants for the duration of the swim portion of the
IV. Discussion of the Rule

This rule establishes a special local regulation from 7 a.m. until 11 a.m. on August 1, 2021. The special local regulation will cover all navigable waters from mile 648 to 650 on the Tennessee River. The duration of the zone is intended to protect participants of the K-Town on the river triathlon. No vessel or person or vessel, other than the participants, will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. 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 and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size location, and duration of the zone. Vessel traffic will be limited for a four hour duration on one day.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

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.

C. 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).

D. Federalism and Indian Tribal Governments

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 is consistent with the fundamental federalism principles and
preemption requirements described in Executive Order 13132.

Also, 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.

E. 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive
023-01, Rev. 1, associated implementing instructions, and Environmental Planning
COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the
National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have
determined that 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 involves a
special local regulation lasting only 4 hours that will prohibit entry from mile 648 to 650
on the Tennessee River. It is categorically excluded from further review under paragraph
L[61] and L[63a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01,
Rev. 1.

G. Protest Activities
The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

   Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T08-0547 to read as follows:

§ 100.T08-0547 Tennessee River MM 648 to MM 650, Knoxville, TN.

(a) Regulated area. The regulations in this section apply to the following area:

all waters of the Tennessee River from MM 648 to 650.

(b) Regulations. (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s representative by phone at 502-779-5422. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.
(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners.

(c) *Enforcement period.* This section will be enforced on August 1, 2021, from 7 a.m. to 11 a.m.

Dated: July 14, 2021.

A.M. Beach,

Captian, U.S. Coast Guard,

Captain of the Port Sector Ohio Valley.

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