



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0333]

RIN 1625-AA87

Security Zone; USS MISSISSIPPI Commissioning; Pascagoula Harbor & Pascagoula River; Pascagoula, MS.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for the arrival, commissioning, and departure of the USS MISSISSIPPI. This security zone is necessary to protect persons, vessels, and waterfront facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature during the arrival, commissioning, and departure of the USS MISSISSIPPI. Entry into 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 from May 23, 2012 to June 8, 2012.

ADDRESSES: Documents mentioned in this preamble are part of

docket USCG-2012-0333. 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 Lenell J. Carson, Sector Mobile, Waterways Division, U.S. Coast Guard; telephone 251-441-5940, e-mail Lenell.J.Carson@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. 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 there is insufficient time to publish a NPRM. Following a planning meeting on March 29, 2012 between the U.S Navy, U.S Coast Guard, local agencies, and port stakeholders, the Coast Guard determined that a temporary security zone is necessary during the arrival, commissioning ceremony (to be held on June 2, 2012), and departure of the USS MISSISSIPPI. Publishing a NPRM and delaying this rule's effective date would be impracticable because it would unnecessarily delay the USS MISSISSIPPI's schedule and commitments. Delaying or foregoing this necessary security zone would also be contrary to public interest. This is a scheduled public event surrounding the commissioning of a U.S. Naval vessel and immediate action is necessary to implement additional security measure to protect persons, vessels, and waterfront facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature.

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 because immediate action is needed to protect persons, vessels, and waterfront facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature during the arrival, commissioning, and departure of the USS MISSISSIPPI.

B. Basis and Purpose

The USS MISSISSIPPI will be commissioned at the Port of Pascagoula, Pascagoula, MS on June 2, 2012. Scheduled events surround the commissioning ceremony will draw large crowds in or near the port. Additional security measures are necessary to protect persons, vessels, and waterfront facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature during the arrival, commissioning, and departure of the USS MISSISSIPPI.

The COTP anticipates some impact on vessel traffic due to this regulation. However, this security 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 security zone for the arrival, commissioning, and departure of the

USS MISSISSIPPI. While the USS MISSISSIPPI is underway in the Pascagoula Harbor shoreward of the Horn Island Pass Lighted Buoy HI (RW "HI" Mo (A); Position 30-08-30.049 N, 088-38-40.125 W), the temporary security zone includes all waters within 100 yards of the USS MISSISSIPPI. When the USS MISSISSIPPI is moored in the Port of Pascagoula, the temporary security zone includes all waters within 25 yards of the USS MISSISSIPPI. Entry into these zones 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 of changes in the effective period for the security zone. This rule is effective from May 23, 2012 to June 8, 2012.

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 that Order.

The security zone listed in this rule will only restrict vessel traffic from transiting a small portion of the Pascagoula Harbor and Pascagoula River while the USS MISSISSIPPI is transiting through the harbor and when moored in the Port of Pascagoula. 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 to transit through the security zone; and 3) the impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through the Local Notices to Mariners and via Safety Broadcast Notices to Mariners. These notifications will allow the public to plan operations around the affected areas.

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 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 or anchor in the affected areas during the arrival, commissioning, and departure of the USS MISSISSIPPI. This security 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 traffic will be allowed to pass through the zone with the permission of the COTP.

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 security during the arrival, commissioning, and departure of the USS MISSISSIPPI 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.

E. List of Subjects 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. Add § 165.T08-0333 to read as follows:

§ 165.T08-0333 Security Zone; Pascagoula Harbor & Pascagoula River, Pascagoula, MS.

(a) Location. The following areas are temporary security zones: all waters of the Pascagoula Harbor and Pascagoula River-

(1) Within 100 yards of the USS MISSISSIPPI while underway shoreward of the Horn Island Pass Lighted Buoy HI (RW "HI" Mo (A); Position 30-08-30.049 N, 088-38-40.125 W).

(2) Within 25 yards of the USS MISSISSIPPI while moored in the Port of Pascagoula.

(b) Effective Dates. This rule is effective from May 23 through June 8, 2012.

(c) Periods of enforcement. This section will only be enforced while the USS MISSISSIPPI is underway shoreward of the Horn Island Pass Lighted Buoy HI (RW "HI" Mo (A); Position 30-08-30.049 N, 088-38-40.125 W) and while moored in the Port of Pascagoula.

(d) Regulations. (1) In accordance with the general regulations in § 165.33 of this part, entry into the security zones is prohibited unless authorized by the Captain of the Port (COTP) Mobile or a designated representative.

(2) Persons or vessels desiring to enter into or passage through the security zones must request permission from the COTP 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 COTP Mobile or designated representative.

(e) Informational Broadcasts. The COTP Mobile or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the security zones as well as any changes in the planned schedule.

Dated: April 30, 2012

D. J. ROSE
Captain, U.S. Coast Guard
Captain of the Port Mobile

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