



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0931]

RIN 1625-AA00

Security Zone; James River, Kingsmill Resort, Williamsburg, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final rule.

SUMMARY: The U.S. Coast Guard is establishing a temporary security zone on the James River in the vicinity of Kingsmill Resort Marina, Williamsburg, VA during a visit by The President of the United States. This security zone will prohibit unauthorized vessels and people from entering or remaining in the security zone without permission from the Captain of the Port or designated representative. This security zone is necessary to provide security for The President of the United States.

DATES: This rule is effective October 12, 2012 to October 17, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-0931. 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 LCDR Hector Cintron, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757-668-5581, e-mail Hector.L.Cintron@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 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)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest. The Coast Guard received information about the event on October 3, 2012. Since immediate action is needed to protect The President of the United States and accompanying high-ranking government officials from potential waterborne threats; the Coast Guard was unable to provide prior notice and opportunity to comment.

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. The measures contemplated by the rule are intended to protect The President of the United States and accompanying high-ranking government officials, and the public from possible waterborne security threats. Any delay in the effective

date of this rule is contrary to public and national interests.

B. Basis and Purpose

On October 13, 2012, The President of the United States will visit Kingsmill Resort in Williamsburg, VA. The United States Secret Service has requested the Coast Guard provide waterborne point protection during the visit.

This temporary security zone is necessary to provide for the security of The President of the United States and accompanying high-ranking government officials, and protect against sabotage or terrorist attacks to human life, vessels, mariners and waterfront facilities at or near this event.

C. Discussion of the Final Rule

The U.S. Coast Guard is establishing a temporary security zone on the navigable waters of the James River in the vicinity Kingsmill Resort Marina, Williamsburg, VA. This security zone will encompass all navigable waters on the James River within a 1000 yard radius of approximate position 37°13'23"N / 76°40'03"W (NAD 1983) in the vicinity of Kingsmill Resort Marina, in Williamsburg, VA.

Access to the security zone will be restricted during the specified date and times. Except for vessels authorized by the Captain of the Port or his

Representative, no person or vessel may enter or remain in the regulated area. This temporary security zone will be effective and enforced from 11:59 p.m. on October 12, 2012 to 12:01 p.m. on October 17, 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 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 or Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation restricts access to the security zone, the effect of this rule will not be significant because: (i) the security zone will be in effect for a limited duration; (ii) the zone is of limited size; (iii) vessels can safely transit around the zone and are not precluded from using

any portion of the waterway except the security zone itself; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

2. Impact on 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. However, this rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in the described portion of the security zone during the enforcement periods from 11:59 p.m. on October 12, 2012 to 12:01 p.m. on October 17, 2012. The temporary security zone will not have a significant impact on a substantial number of small entities because the zone will only be in place for a limited duration and

maritime advisories will be issued allowing the mariners to adjust their plans accordingly.

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 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.

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 an 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 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. This rule involves establishing a temporary security zone. Under figure 2-1, paragraph (34)(g) of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule because it concerns an emergency situation of less than 1 week in duration.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart C 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. Add temporary § 165.T05-0931 to read as follows:

§ 165.T05-0931 Security Zone; James River, Kingsmill Resort, Williamsburg, VA.

(a) Regulated area. The following area is a security zone: all navigable waters of the James River within a 1000 yard radius of approximate position 37°13'23"N / 76°40'03"W (NAD 1983) in the vicinity of Kingsmill Resort Marina, in Williamsburg, VA.

(b) Definition. For purposes of enforcement of this section, Captain of the Port Representative means any U. S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) Regulation. (1) In accordance with the general regulations in § 165.33 of this part, entry into this security zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia, or the Captain of the Port Representative.

(2) The operator of any vessel granted permission to enter this security zone must:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign; and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads, Virginia can be contacted at telephone number (757) 638-6637.

(4) U.S. Coast Guard vessels enforcing the security zone can be contacted on VHF-FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) Enforcement period. This section will be enforced from 11:59 p.m. on October 12, 2012 to 12:01 p.m. on October 17, 2012.

Dated: October 5, 2012

John K. Little
Captain, U.S. Coast Guard
Captain of the Port Hampton Roads

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