



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-1077]

RIN 1625-AA87

Security Zone; 25th Annual North American International Auto Show, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the Detroit River, Detroit, Michigan. This security zone is intended to restrict vessels from a portion of the Detroit River in order to ensure the safety and security of participants, visitors, and public officials at the 25th Annual North American International Auto Show (NAIAS), which is being held at Cobo Hall in downtown Detroit, MI. Vessels in close proximity to the security zone will be subject to increased monitoring and boarding during the enforcement of the security zone.

DATES: This temporary final rule is effective from 8:00 a.m. on January 13, 2013 until 12:00 a.m. on January 28, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-1077. To view documents mentioned in this preamble as being available in the docket, go to www.regulations.gov, type the docket number in the "SEARCH" box, and click "Search." You may visit the Docket Management Facility, 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313)568-9508, e-mail Adrian.F.Palomeque@uscg.mil. If you have questions on viewing 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 doing so would be impracticable, unnecessary and contrary to the public interest. The final details regarding the security measures associated with this year's event were not known to the Coast Guard with sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, waiting for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard from protecting the participants, visitors, and public officials at this year's NAIAS.

It is also unnecessary to solicit public comments because the NAIAS event has taken place annually under the same name since 1989, has been recognized as one of the premier international car shows in the world for more than twenty-five years, and has been at the same location since 1965. In light of the long history of this event and the prior years that it has been regulated by the Coast Guard, public awareness in the affected area is high, making it unnecessary to wait for a comment period to run before enforcing this security zone for

the January 2013 NAIAS event.

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. For the same reasons discussed in the preceding two paragraphs, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The 25th Annual North American International Auto Show (NAIAS) will be held at Cobo Hall in downtown Detroit, MI. The NAIAS is the prime venue for introducing the world's most anticipated vehicles. The public showing days of the NAIAS begin January 19 and extend through January 27. Prior to the public showing, there will also be multiple high profile events; including the press preview days (January 14-15, 2013), industry preview days (January 16-17, 2013), and the charity preview event (January 18, 2013). In 2011, the NAIAS attendance for the public showing was over 735,000 people and press preview days attracted over 5,000 journalists representing 55 countries. Attendance and participation at the 2013 NAIAS is anticipated to rival the 2011 show's attendance and will likely remain as one of the largest media events in North America.

NAIAS has attracted numerous protesters from various organizations. Due to the current state of the economy, the

recent number of layoffs, the closures of several thousand automotive dealerships around the country, and the likely presence of high profile visitors, it is possible that protests may continue to occur at this year's event. Consequently, the Captain of the Port Detroit has determined that it is necessary to establish a temporary security zone to protect participants, visitors, and public officials attending the event from any potential unrest and conflict that might arise from mass protests.

C. Discussion of Rule

To safeguard portions of the Detroit River during this year's event, the Captain of the Port Detroit has determined that a temporary security zone is necessary. This security zone will ensure the safety of the participants in and visitors of the 25th Annual North American International Auto Show being held at Cobo Hall in downtown Detroit, MI. The security zone will be in effect from 8:00 a.m. on January 13, 2013 until 12:00 a.m. on January 28, 2013. The zone will only be enforced from 8:00 a.m. to 12:00 a.m. daily for the duration of the event.

The security zone will encompass an area of the Detroit River beginning at a point of origin on land adjacent to the west end of Joe Lewis Arena at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a

point at 42° 19.72' N, 083° 01.88' W; then proceeding onshore to a point on land adjacent the Tricentennial State Park at 42° 19.79' N, 083° 01.90' W; then proceeding downriver along the shoreline to connect back to the point of origin. Vessels in close proximity to the security zone will be subject to increased monitoring and boarding. All geographic coordinates are North American Datum of 1983 (NAD 83).

Entry into, transiting, including below the surface of the water, or anchoring within the security zones is prohibited unless authorized by the Captain of the Port, Sector Detroit, or his designated on-scene representative. The on-scene representative of the Captain of the Port will be aboard a Coast Guard or Local Law Enforcement vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

The security zone created by this rule does not inhibit members of the public from assembling on shore or expressing from locations on shore their points of view to those attending the NAIAS.

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 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have a minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The security zone on the Detroit River will be relatively small and exist for only a minimal time. Thus, restrictions on vessel movement within any particular area of the Detroit River are expected to be minimal. Under certain conditions, vessels may still transit through the security zone when permitted by the Captain of the Port. Moreover, vessels may still transit freely in Canadian waters adjacent to the security zone.

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. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the temporary security zone established by this rule between 8:00 a.m. on January 13, 2013 until 12:00 a.m. on January 28, 2013.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this security zone will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone. In the event that this temporary security zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the security zone. The Captain of the Port can be reached via VHF channel 16. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

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 to that they can better evaluate its effects on them. If this 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 section 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 determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. The security zone created by this rule does not inhibit members of the public from assembling on shore or expressing from locations on shore their points of view to those attending the NAIAS. Nonetheless, 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 concluded 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 the establishment of a security zone and, therefore it 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 are 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 record keeping 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, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-1077 to read as follows:

§ 165.T09-1077 Security Zone; 25th Annual North American International Auto Show, Detroit River, Detroit, MI

(a) Location. The following area is a temporary security zone: an area of the Detroit River beginning at a point of origin on land adjacent to the west end of Joe Lewis Arena at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a point at 42° 19.72' N, 083°

01.88' W; then proceeding onshore to a point on land adjacent to the Tricentennial State Park at 42° 19.79' N, 083° 01.90' W; then proceeding downriver along the shoreline to connect back to the point of origin on land adjacent to the west end of the Joe Louis Arena. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) Effective and Enforcement Period. This regulation is effective from 8:00 a.m. on January 13, 2013 until 12:00 a.m. on January 28, 2013. However, the security zone will only be enforced from 8:00 a.m. to 12:00 a.m. daily from January 13, 2013 through January 28, 2013.

(c) Regulations. (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) This security zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sector Detroit is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port,

Sector Detroit to act on his behalf.

(4) Vessel operators desiring to enter or operate within the security zone shall contact the Captain of the Port, Sector Detroit or his on-scene representative to obtain permission to do so. The Captain of the Port, Sector Detroit or his on-scene representative may be contacted via VHF Channel 16 or at 313-568-9464. Vessel operators given permission to enter or operate in the security zones must comply with all directions given to them by the Captain of the Port, Sector Detroit, or his on-scene representative.

DATED: December 17, 2012.

J. E. Ogden
Captain, U. S. Coast Guard
Captain of the Port Detroit

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