



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0376]

RIN 1625-AA00

Safety Zone; James River; Newport News, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone on the navigable waters of the James River in the vicinity of the James River Reserve Fleet and Hog Island, Virginia for multiple periods of one hour in length each on all weekdays from August 6 until August 15, 2014. This safety zone is intended to restrict vessel movement in the specified area during the United States Navy's demonstrations involving unmanned and remote-operated crafts. This action is necessary to provide for the safety of life and property on the surrounding navigable waters during the events due to the high speed maneuvering of the vessels and the experimental nature of the control technology.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT 15 DAYS AFTER PUBLISH IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments online at <http://www.regulations.gov> (follow website directions) or by fax to 202-493-2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LCDR Gregory Knoll, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone (757) 668-5580, e-mail HamptonRoadsWaterway@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, 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. Public Participation and Comments

Information and comments that you send us may influence our final action on these proposals. Mark comments with docket number USCG-2014-0376 and provide a reason for each comment. If you include personal contact information, it will help us if we need to follow up on your comments, but it may be searchable by others online (see the Privacy Act notice at 73 FR 3316, Jan. 17, 2008).

Documents mentioned in this notice, and all public comments, can be viewed at <http://www.regulations.gov> by following the website's directions.

We are not planning to hold a public meeting, but if you think one would be helpful, please contact us (see FOR FURTHER INFORMATION CONTACT) as soon as possible.

B. Regulatory History and Information

The United States Navy is conducting a demonstration in the James River in the vicinity of the James River Reserve Fleet and Hog Island. This is not expected to be an annually recurring event, although the Navy and other entities of the federal government have conducted other experiments and exercises requiring safety zones in the past.

C. Basis and Purpose

The legal basis of this rule is 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. The purpose of this rule is to promote public and maritime safety during the Navy's demonstrations involving unmanned and remote-operated crafts.

D. Discussion of the Proposed Rule

The Captain of the Port of Hampton Roads proposes to establish a safety zone within the waters of the James River, from James River Channel Lighted Buoy 11 (LLNR 11595), upstream to James River Channel Lighted Buoy 44 (LLNR 11987), bank to bank, in the vicinity of the James River Reserve Fleet and Hog

Island, Virginia. This proposed safety zone will be enforced from August 6, 2014 through August 8, 2014 and August 11, 2014 through August 15, 2014 during the hours of 9:30 a.m. to 10:30 a.m., 11:30 a.m. to 12:30 p.m. and 2 p.m. to 3 p.m. each day. Access to the safety zone will be restricted during the specified dates and times.

Except for vessels authorized by the Captain of the Port or his designated representative, no person or vessel may enter or remain in the safety zone during the time frame listed. The Captain of the Port will give notice of the enforcement of the safety zone by all appropriate means to provide the widest dissemination of notice among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine Information Broadcasts.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed 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 primary impact of these regulations will be on vessels wishing to transit the affected waterways during the safety zone on the James River in the vicinity of Newport News, VA. Although these regulations prevent traffic from transiting a portion of the James River during these experiments, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

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 proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed 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 specified waters of the James River during the outlined timeframe.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) the safety zone will only be in place for a limited duration, and (ii) before the enforcement period, maritime advisories will be issued allowing 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 proposed 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 proposed 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 proposed 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. 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed rule 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed 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 proposed rule involves the establishment of a safety zone. This

proposed 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 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 recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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.T05-0376 to read as follows:

165.T05-0376 Safety Zone, James River; Virginia Beach, VA

(a) *Definitions.* For the purposes of this section, Captain of the Port means the Commander, Sector Hampton Roads.

Representative means any Coast Guard commissioned, warrant or

petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25-10: the James River between James River Channel Lighted Buoy 11 and James River Channel Lighted Buoy 44 from bank to bank.

(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, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Contact on scene contracting vessels via VHF channel 13 and 16 for passage instructions.

(ii) If on scene proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 668-5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band radio

channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement period.* This section will be enforced from 9:30 a.m. to 10:30 a.m., 11:30 a.m. to 12:30 p.m. and 2 p.m. to 3 p.m. each day from August 6, 2014 through August 8, 2014 and from August 11, 2014 through August 15, 2014.

Dated: June 25, 2014

Christopher S. Keane
Captain, U.S. Coast Guard
Captain of the Port Hampton Roads

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