



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0880]

RIN 1625-AA87

Security Zone: Escorted Vessels, Los Angeles-Long Beach, CA,

Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Interim rule and request for comments.

SUMMARY: The Coast Guard is establishing a security zone around any vessel escorted by one or more Coast Guard, State, or local law enforcement assets on the navigable waters of the Captain of the Port (COTP) Zone, Los Angeles-Long Beach, California. This action is necessary to protect personnel, vessels, and facilities from sabotage or other subversive acts, accidents, or other events of a similar nature. No vessel or person is allowed in this zone unless authorized by the Captain of the Port or a designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For the purposes

of enforcement, actual notice will be used from September 18, 2015, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments and related material must be received by the Coast Guard on or before December 17, 2015. Requests for public meetings must be received by the Coast Guard on or before November 18, 2015.

ADDRESSES: You may submit comments identified by docket number USCG-2015-0880 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LT Jevon James, Waterways Management, U.S. Coast Guard; telephone (310)521-3860, email Jevon.L.James2@uscg.mil.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received

during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086).

Documents mentioned in this rule as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

B. Regulatory History and Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing a NPRM and delaying the effective date would be impracticable, as publication of an NPRM would delay the effective date of this rule past the time where it was needed. To ensure safe boating and the appropriate distance away from the escorted vessel is maintained, it is imperative that a standard exclusionary zone be broadcast and safe speeds be followed for all escorted vessels.

For the same reason above, 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.

C. Basis and Purpose

The terrorist attacks of September 2001 heightened the need for development of various security measures throughout the seaports of the United States, particularly around vessels and facilities whose presence or movement creates a heightened vulnerability to terrorist acts; or those for which the consequences of terrorist acts represent a threat to national security. The President of the United States has found that the security of the United States is and continues to be endangered following the attacks of September 11 (E.O. 13,273, 67 FR 56215,

Sep. 3, 2002 and 79 FR 56475, Sep. 19, 2014).

The Captain of the Port Los Angeles-Long Beach, California conducts port security operations involving vessels that require additional security, including, but not limited to, high capacity passenger vessels, vessels carrying sensitive Department of Defense cargoes, vessels carrying dangerous cargoes, and foreign naval vessels. The Captain of the Port has determined that these vessels have a significant vulnerability to subversive activity by other vessels or persons, or, in some cases, themselves pose a risk to a port and the public within the Captain of the Port Zone, as described in 33 CFR 3.55-10. This rule enables the COTP Los Angeles-Long Beach to provide effective port security, while minimizing the public's confusion and easing the administrative burden of implementing separate temporary security zone rules for each escorted vessel.

D. Discussion of the Interim Rule

This rule establishes a security zone that prohibits persons and vessels from coming within 500 yards of all escorted vessels within navigable waters, as defined in 33 CFR 2.36, of the Captain of the Port Zone Los Angeles-Long Beach, CA, as described in 33 CFR 3.55-10. Persons or vessels that receive permission to enter the security zone must proceed at a minimum safe speed, at a safe distance from the escorted vessel as directed by the on scene Coast Guard, State, or local law

enforcement agency, and must comply with all orders issued by the COTP or a designated representative. Outside of this arrangement, no vessel or person may enter within a 500-yard radius of an escorted vessel.

An escorted vessel is defined as a vessel, other than a large U.S. naval vessel as defined in 33 CFR 165.2015, that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia as listed below:

(1) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2) State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used. In all cases, broadcast notice to mariners will be issued to advise mariners of these restrictions.

E. 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 and executive orders.

1. Regulatory Planning and Review

E.O.s 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget. The limited geographic area impacted by the security zone will not restrict the movement or routine operation of commercial or recreational vessels through the Ports within the Captain of the Port Zone Los Angeles-Long Beach.

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 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in the vicinity of escorted vessels. This rule would not have a significant impact on a substantial number of small entities

because the zones are limited in size, in most cases leaving ample space for vessels to navigate around them. The zones will not significantly impact commercial and passenger vessel traffic patterns, and mariners will be notified of the zones via Broadcast Notice to Mariners. Where such space is not available and security conditions permit, the Captain of the Port will attempt to provide flexibility for individual vessels to transit through the zones as needed.

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.

3. 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).

4. 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 determined that this rule does not have implications for federalism.

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.

5. 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.

6. 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 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.

7. 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.

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 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; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.11731 to read as follows:

§ 165.11731 Security Zone: Escorted Vessels, Los Angeles-Long Beach, CA, Captain of the Port Zone.

(a) Definitions. The following definitions apply to this section:

COTP means Captain of the Port Los Angeles-Long Beach, CA (LALB).

Designated representatives means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other

officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the COTP, in the enforcement of the security zone.

Escorted vessel means a vessel, other than a large U.S. naval vessel as defined in §165.2015, that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia as listed below:

(1) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2) State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

(3) When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used. In all cases, broadcast notice to mariners will be issued to advise mariners of these restrictions.

Minimum safe speed means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for

a particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

(1) On a plane;

(2) In the process of coming up onto or coming off a plane;

or

(3) Creating an excessive wake.

(b) Regulated area. All navigable waters, as defined in 33 CFR 2.36, within the Captain of the Port Zone, Los Angeles-Long Beach, California 33 CFR 3.55-10.

(c) Security zone. A 500-yard security zone is established around each escorted vessel within the regulated area described in paragraph (b) of this section. This is a moving security zone when the escorted vessel is in transit and becomes a fixed zone when the escorted vessel is anchored or moored. A security zone will not extend beyond the boundary of the regulated area in this section.

(d) Regulations. (1) The general regulations for security zones contained in §165.33 apply to this section.

(2) A vessel may request the permission of the COTP LALB or a designated representative to enter the security zone described in paragraph (c) of this section. If permitted to enter the security zone, a vessel must proceed at the minimum safe speed and must comply with the orders of the COTP or a designated representative.

(e) Notice of security zone. The COTP will inform the public of the existence or status of the security zones around escorted vessels in the regulated area by Broadcast Notice to Mariners. Coast Guard assets or other Federal, State or local law enforcement agency assets will be clearly identified by lights, vessel markings, or with agency insignia. When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used.

(f) Contact information. The COTP LALB may be reached via phone at (310) 521-3801. Any on scene Coast Guard or designated representative assets may be reached via VHF-FM channel 16.

Dated: September 15, 2015.

J. F. Williams,
Captain, U.S. Coast Guard,
Captain of the Port Los Angeles - Long Beach.

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