



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0785]

RIN 1625-AA11

Regulated Navigation Areas; Harbor Entrances along the Coast of Northern California

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing Regulated Navigation Areas (RNAs) at the harbor bar entrances to Crescent City Harbor, Humboldt Bay, Noyo River, and Morro Bay. This regulation creates additional safety requirements for recreational and small commercial vessels operating in these areas during periods of hazardous conditions, such as high wind or breaking surf, and establishes clear procedures for restricting and closing these harbor bar entrances in the event of unsafe conditions. This regulation is necessary to enhance mariner and vessel safety when bar conditions exceed certain parameters, typically when breaking seas are projected to be 20-foot or greater. This rulemaking prohibits vessels from entering these areas during unsafe conditions unless authorized by the local Captain of the Port or a designated representative.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0785 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Marcia Medina, Coast Guard District 11 Waterways Office; telephone 510-437-2978, email marcia.a.medina@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
LA-LB	Los Angeles-Long Beach
OCMI	Officer in Charge of Marine Inspection
OMB	Office of Management and Budget
MLB	Motor Lifeboat
NAD	North American Datum
NOAA	National Oceanic and Atmospheric Administration
NTSB	National Transportation Safety Board
NPRM	Notice of Proposed Rulemaking
PWSA	Ports and Waterways Safety Act
RNA	Regulated Navigation Area
U.S.C.	United States Code
USCG	United States Coast Guard
§	Section

II. Background Information and Regulatory History

Severe currents, wave and sea conditions along bars on the northern California coast have contributed to numerous marine casualties. The current mariner rules of the road governing maritime traffic operating in the vicinity of the Crescent City Harbor, Humboldt Bay, Noyo River, and Morro Bay Harbor bar entrances are insufficient to

enhance the safety of mariners and vessels operating in those areas during unsafe conditions. The COTP (Captain of the Port) San Francisco and COTP Los Angeles-Long Beach (LA-LB) have issued various navigation safety advisories and created numerous temporary emergency safety zones to mitigate risk to mariners and vessels transiting the Crescent City Harbor, Humboldt Bay, Noyo River, and Morro Bay Harbor entrances during unsafe conditions.¹ These emergency safety zones included policies and procedures for closing the bar to vessel traffic as well as vessel escort policies and provided parameters and procedures for waiver requests. Continued reliance on temporary emergency safety zones to accomplish the required risk mitigation, however, does not provide consistency or predictability of Coast Guard actions to mariners. A COTP can issue COTP Orders under the Ports and Waterways Safety Act (PWSA) to direct a specific vessel, facility, or individual in order to: restrict or stop vessel operations; require specific actions to be taken; deny a vessel further entry to port until a deficiency is corrected; or detain a vessel in port. COTP Orders cannot be issued to “all vessels” or a class of vessels, facilities or individuals, where a group or class of entities is targeted, the issuance of a rule is more appropriate. The issuance of a permanent regulation to create additional safety requirements for recreational and small commercial vessels operating in these areas during periods of hazardous conditions, is inline with various Coast Guard and National Transportation Safety Board (NTSB) casualty investigations that have identified a need for specific Coast Guard regulations to mitigate

¹ See, e.g., 84 FR 52763, Oct. 3, 2019; and 85 FR 2643, Jan. 16, 2020.

risks and enhance the safety of mariners and vessels operating in the vicinity of bars along the northern California coast.²

The Coast Guard solicited public input on the potential establishment of RNAs at these locations through the *Federal Register* prior to publication of the Notice of Proposed Rule Making (NPRM) for this rule (83 FR 5592, Feb. 8, 2018). In addition to the *Federal Register* notices, Coast Guard COTP LA-LB and COTP San Francisco engaged in an extensive public outreach plan which included a press release issued on November 12, 2019, to engage all stakeholders in the local communities.³ In addition, the Coast Guard published an article in the Local Notice to Mariners for four weeks, from November 14, 2019 to December 11, 2019. On November 7, 2019, the Coast Guard published the NPRM “Regulated Navigation Areas; Harbor Entrances Along the Coast of Northern California (84 FR 60025).” There, we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this rule. During the comment period that ended December 9, 2019, we received five comment submissions. In addition, we received one document submission after the comment period ended, but we still accepted and considered the comment.

III. Legal Authority and Need for Rule

The Eleventh District Commander has determined that there is a need to create additional safety requirements for recreational and small commercial vessels operating at the Crescent City Harbor, Humboldt Bay, Noyo River, and Morro Bay Harbor bar entrances during periods of hazardous conditions, such as high wind or breaking surf, as

² See NTSB Safety Recommendation M-05-009, available at: https://www.nts.gov/investigations/AccidentReports/_layouts/nts.gov/recsearch/Recommendation.aspx?Rec=M-05-009.

³ <https://content.govdelivery.com/accounts/USDHSCG/bulletins/26ba479>.

well as establish clear procedures for restricting and closing these harbor bar entrances in the event of unsafe conditions. This rule streamlines safety regulations and provides predictability for local mariners regarding the conditions for the Coast Guard to regulate navigation in the vicinity of these bar entrances based on weather, sea, tide, and river conditions. This rule enhances mariner and vessel safety when bar conditions exceed certain parameters, typically when breaking seas are projected to be 20-foot or greater. This rulemaking prohibits vessels from entering these areas during unsafe conditions unless authorized by the local COTP or a designated representative.

The Coast Guard is creating this rulemaking under the authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231) and Department of Homeland Security (DHS) Delegation No. 0170.1(70). This authority has been re-delegated by the Commandant to District Commanders in accordance with 33 CFR 1.05-1(e). Authority to activate the RNA at Morro Bay Harbor is delegated from the District Commander to COTP LA-LB. The authority to activate the RNA at Crescent City Harbor, Humboldt Bay, and Noyo River is delegated to COTP San Francisco. The Designated Representative for enforcement of this RNA at Crescent City Harbor, Humboldt Bay, and Noyo River will be designated by COTP San Francisco to Commander, Sector Humboldt Bay.

IV. Discussion of Comments, Changes, and the Rule

During the comment period, which ended December 9, 2019, we received five submissions from the public. We received one additional submission after the comment period ended. The Coast Guard accepted and considered all six submissions from the public in drafting this final rule. A total of 7 issues were raised by the commenters.

1. Description of the Regulated Navigation Areas (RNAs). One commenter stated that the Coast Guard provided a vague depiction of the RNAs. An amendment to the rule was made based on this comment to simplify the National Oceanic and Atmospheric Administration (NOAA) charting requirements. Each bar crossing will now be described with latitude/longitude geographic coordinates in order to be plotted onto NOAA charts. Horizontal Datum on all these coordinates is North American Datum (NAD) 83.

2. Definition of the term navigable waters. One commenter was concerned that the term “navigable waters” was not defined in the regulation. The Coast Guard did not make changes to the rule because the term “navigable waters” is defined in 33 CFR 2.36.

3. Economic effects of the rule on small entities and local economies. Two commenters raised concerns about possible economic effects of the rule on small entities and local economies. Specifically, the commenters expressed that the rule would put undue burden on small commercial fishing operations and Uninspected Passenger Vessels engaged in recreational fishing and/or interfere with commercial fishing activities based on these comments. There should not be any adverse economic effects on small entities and local economies, since the bar restrictions and closures are already a part of the regions’ economic baseline activity. The rule is a codification of existing standard practices. Utilizing current weather patterns, the Coast Guard has determined that the rule will not increase the number of bar restrictions or closures from past years. After careful consideration, the Coast Guard determined that changes to the rule based on this comment were not necessary.

4. *Enforcement personnel.* One commenter questioned whether RNAs were enforced only by crews on Motor Lifeboats (MLB)s. The Coast Guard has and will continue to use all available resources to enforce this RNA and is not limited to MLBs. No changes to the rule were made based on this question.

5. *Person responsible for making the determination if conditions are unsafe.* Two commenters stated their belief that mariners should be the ones making the determination if conditions are unsafe. Although the recreational and commercial mariner might be an expert mariner, the decision to transit a potentially hazardous bar should not be left solely to their discretion. There may be unknown outside factors along with subtle influences to contend with at the time when making a crossing attempt. Coast Guard personnel have the knowledge of local conditions in evaluating whether the go/no-go policies developed and implemented by vessel owners and operators are appropriate to attain a sufficient level of operational safety. No changes to the rule were made based on these comments.

6. *Carriage of additional safety equipment.* One commenter was concerned about carrying additional safety equipment onboard vessels such as an immersion suit instead of a life jacket and adding jack lines, harnesses, and safety tethers. A prudent mariner should be familiar with, and carry onboard, the safety equipment required by federal and state laws. No changes to the rule were made based on the comment.

7. *Notice to the public concerning this rulemaking.* One commenter stated their belief that there was a lack of communication from the Coast Guard to the public concerning this rulemaking action. The Coast Guard disagrees. The agency robustly attempted to engage the public prior to issuance of this final rule. As discussed above in

section II of this document, the Coast Guard solicited comments in the Federal Register prior to issuance of the NPRM and engaged in an extensive public outreach plan at the local level. In accordance with the Administrative Procedure Act, the Coast Guard published an NPRM soliciting public comment on November 7, 2019. To further advertise that the NPRM was out and available for comment the Coast Guard issued a press release on November 12, 2019, requesting comments for the rule. In addition to the November 12th press release, the Coast Guard published an article in the Local Notice to Mariners for four weeks, from November 14, 2019, to December 11, 2019. In addition, Sector LA-LB advertised the need for comments at their local Harbor Safety Committee/Subcommittee meetings, with local harbormasters, and at local marinas.

All comments received were considered in drafting this final rule. No comments other than those already mentioned, however, resulted in any changes to the rule because, although important, they were either outside the scope of the rule or appeared to be based on a misunderstanding of the rule. The Coast Guard utilized the comments received to draft the RNA text to be minimally disruptive to the local community and mariners utilizing Crescent City Harbor, Humboldt Bay, Noyo River, and Morro Bay Harbor bar entrances outlined in this final rule, while acknowledging the limits of Coast Guard rescue assets and the need for additional safety measures.

The Coast Guard encourages mariners having further questions about the rule and how to comply with it to contact the Coast Guard point of contact listed under FOR FURTHER INFORMATION CONTACT.

V. Regulatory Analyses

The Coast Guard 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 and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that: (1) the regulation does not require vessel operators affected by the regulation to purchase additional equipment; (2) the restriction and/or closure of the bars are temporary and will only occur when necessary due to unsafe conditions; (3) the maritime public will be advised of bar restrictions and/or closures via one or more of the following methods: Broadcast Notice to Mariners, local government partners, bar warning lights and/or publication in the Local Notice to Mariners; and (4) vessels may be allowed to enter the RNA when a bar restriction and/or closure is in place on a case-by-case basis with permission of the COTP or a designated representative.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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 received zero comments from the Small Business Administration on this 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: owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the RNA at times when the RNA has been activated. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) the regulation does not require vessel operators affected by the regulation to purchase additional equipment; (2) the restriction and/or closure of the bars are temporary and will only occur when necessary due to unsafe conditions; (3) the maritime public will be advised of bar restrictions and/or closures via one or more of the following methods: Broadcast Notice to Mariners, local government partners, bar warning lights and publication in the Local Notice to Mariners; and (4) vessels may be allowed to enter the RNA when a bar restriction or closure is in place on a case-by-case basis with permission of the COTP or a designated representative.

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 call or

email the person listed in the FOR FURTHER INFORMATION CONTACT section.

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.

C. 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).

D. 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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (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 involves RNAs that would prohibit the transit of maritime traffic in times of unsafe conditions. These actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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, 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: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1196 to read as follows:

§ 165.1196 Regulated Navigation Areas; Harbor Entrances along the Coast of Northern California.

(a) *Regulated navigation areas.* Each of the following areas is a regulated navigation area (RNA):

(1) Humboldt Bay Entrance Channel: The navigable waters enclosed by the following coordinates:

- (i) 40°45'17" N, 124°14'10" W (Point A);
- (ii) 40°45'56" N, 124°15'06" W (Point B);

(iii) 40°46'25" N, 124°14'30" W (Point C);

(iv) 40°46'04" N, 124°13'46" W (Point D); and

(v) Thence back to Point A, in Eureka, CA (NAD 83).

(2) Noyo River Entrance Channel: The navigable waters of the Noyo River Entrance Channel enclosed by the following coordinates:

(i) 39°25'36" N, 123°48'34" W (Point A);

(ii) 39°25'37" N, 123°48'38" W (Point B);

(iii) 39°25'42" N, 123°48'39" W (Point C);

(iv) 39°25'42" N, 123°48'32" W (Point D); and

(v) Thence back to Point A, in in Fort Bragg, CA (NAD 83).

(3) Crescent City Harbor Entrance Channel: The navigable waters of the Crescent City Harbor Entrance Channel enclosed by the following coordinates:

(i) 41°44'11" N, 124°11'22" W (Point A);

(ii) 41°44'11" N, 124°11'42" W (Point B);

(iii) 41°44'25" N, 124°11'54" W (Point C);

(iv) 41°44'12" N, 124°10'22" W (Point D); and

(v) Thence back to Point A, in Crescent City, CA (NAD 83).

(4) Estero-Morro Bay Harbor Entrance Channel: The navigable waters of the Morro Bay Harbor Entrance Channel enclosed by the following coordinates:

(i) 35°21'21" N, 120°52'12" W (Point A);

(ii) 35°21'41" N, 120°52'37" W (Point B);

(iii) 35°21'55" N, 120°52'10" W (Point C);

(iv) 35°21'38" N, 120°51'51" W (Point D); and

(v) Thence back to Point A, in Morro Bay, CA (NAD 83).

(b) *Definitions.* For purposes of this section:

(1) *Bar closure* means that the operation of any vessel within an RNA established in paragraph (a) of this section has been prohibited by the Coast Guard.

(2) *Bar crossing plan* (also known as a Go/No-Go plan) means a plan, developed by local industry, in coordination with Coast Guard, for a bar within an RNA established in paragraph (a) of this section and adopted by the master or operator of a small passenger vessel or commercial fishing vessel to guide his or her vessel's operations on and in the vicinity of that bar.

(3) *Bar restriction* means that operation of a recreational, uninspected passenger, small passenger, and commercial fishing vessel within an RNA established in paragraph (a) of this section has been prohibited by the Coast Guard.

(4) *Commercial fishing industry vessel* means a fishing vessel, fish tender vessel, or a fish processing vessel.

(5) *COTP designated representative* means any Coast Guard commissioned officer, warrant officer, petty officer or civilian that has been authorized by the Captain of the Port (COTP) to act on his or her behalf in the enforcement of the RNA.

(6) *Fish processing vessel* means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling.

(7) *Fish tender vessel* means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, fish tender vessel or a fish

processing facility.

(8) *Fishing vessel* means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

(9) *Operator* means a person who is an owner, a demise charterer, or other contractor, who conducts the operation of, or who is responsible for the operation of a vessel.

(10) *Readily accessible* means equipment that is taken out of stowage and is available within the same space as any person for immediate use during an emergency.

(11) *Recreational vessel* means any vessel manufactured or used primarily for non-commercial use or leased, rented, or chartered to another for non-commercial use. It does not include a vessel engaged in carrying paying passengers.

(12) *Small passenger vessel* means a vessel inspected under 46 CFR subchapter T or 46 CFR subchapter K.

(13) *Uninspected passenger vessel* means an uninspected vessel—

(i) Of at least 100 gross tons;

(A) Carrying not more than 12 passengers, including at least one passenger-for-hire; or

(B) That is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; or

(ii) Of less than 100 gross tons;

(A) Carrying not more than six passengers, including at least one passenger-for-hire; or

(B) That is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than six passengers.

(14) *Unsafe condition* exists when the wave height within an RNA identified in paragraph (a) of this section is equal to or greater than the maximum wave height determined by the formula $L/10 + F = W$ where:

L = Overall length of a vessel measured in feet in a straight horizontal line along and parallel with the centerline between the intersections of this line with the vertical planes of the stem and stern profiles excluding deckhouses and equipment.

F = The minimum freeboard when measured in feet from the lowest point along the upper strake edge to the surface of the water.

W = Maximum wave height in feet to the nearest highest whole number.

(c) *Regulations. (1)(i) Bar restrictions.* The COTP or a designated representative will determine when to restrict passage for recreational and uninspected passenger vessels across the bars located in the RNAs established in paragraph (a) of this section. In making this determination, the COTP or a designated representative will determine whether an unsafe condition exists for such vessels as defined in paragraph (b) of this section. Additionally, the COTP or a designated representative will use his or her professional maritime experience and knowledge of local environmental conditions in making his or her determination. Factors that will be considered include, but are not limited to: size and type of vessel, sea state, winds, wave period, and tidal currents. When a bar is restricted, the operation of recreational and uninspected passenger vessels in the RNA established in paragraph (a) of this section in which the restricted bar is located is prohibited unless specifically authorized by the COTP or a designated

representative.

(ii) *Bar closure.* The bars located in the RNAs established in paragraph (a) of this section will be closed to all vessels whenever environmental conditions exceed the operational limitations of the relevant Coast Guard Search and Rescue resources as determined by the COTP. When a bar is closed, the operation of any vessel in the RNA established in paragraph (a) of this section in which the closed bar is located, is prohibited unless specifically authorized by the COTP or a designated representative. For bars having deep draft vessel access, the COTP will consult with the local pilots association, when practicable, prior to closing the affected bar.

(iii) *Notification.* The Coast Guard will notify the public of bar restrictions and bar closures via a Broadcast Notice to Mariners on VHF-FM Channel 16 and 22A. Additionally, Coast Guard personnel may be on-scene to advise the public of any bar restrictions or closures. In some locations, the Coast Guard may use bar warning lights to provide a visual indication of unsafe conditions to the public. Monitoring cameras and associated websites may also provide mariners with additional information in some locations.

(2) *Safety requirements for recreational vessels.* The operator of any recreational vessel operating in an RNA established in paragraph (a) of this section shall ensure that all persons located in any unenclosed areas of the recreational vessel are wearing lifejackets and that lifejackets are readily accessible for/to all persons located in any enclosed area of the recreational vessel:

- (i) When crossing the bar and a bar restriction exists or
- (ii) Whenever the recreational vessel is being towed or escorted across the bar.

(3) *Safety requirements for uninspected passenger vessels (UPVs)*. (i) The master or operator of any uninspected passenger vessel operating in an RNA established in paragraph (a) of this section shall ensure that all persons located in any unenclosed areas of their vessel are wearing lifejackets and that lifejackets are readily accessible for/to all persons located in any enclosed areas of their vessel uninspected passenger vessel:

(A) When crossing the bar and a bar restriction exists or

(B) Whenever the uninspected passenger vessel is being towed or escorted across the bar.

(ii) The master or operator of any uninspected passenger vessel operating in an RNA established in paragraph (a) of this section during the conditions described in paragraph (c)(3)(i)(A) of this section shall contact the Coast Guard on VHF-FM Channel 16 prior to crossing the bar. The master or operator shall report the following:

(A) Vessel name,

(B) Vessel location or position,

(C) Number of persons onboard the vessel and

(D) Vessel destination.

(4) *Safety Requirements for Small Passenger Vessels (SPV)*. (i) The master or operator of any small passenger vessel operating in an RNA established in paragraph (a) of this section shall ensure that all persons located in any unenclosed areas of the small passenger vessel are wearing lifejackets and that lifejackets are readily accessible for/to all persons located in any enclosed areas of the vessel:

(A) Whenever crossing the bar and a bar restriction exists or

(B) Whenever their vessel is being towed or escorted across the bar.

(ii) Small passenger vessels with bar crossing plans that have been reviewed by and accepted by the Officer in Charge of Marine Inspection (OCMI) are exempt from the safety requirements described in paragraph (c)(4)(i) of this section during the conditions described in paragraph (c)(4)(i)(A) of this section so long as when crossing the bar the master or operator ensures that all persons on their vessel wear lifejackets in accordance with their bar crossing plan. If the vessel's bar crossing plan does not specify the conditions when the persons on their vessel shall wear lifejackets, however, then the master or operator shall comply with the safety requirements provided in paragraph (c)(4)(i) of this section in its entirety.

(iii) The master or operator of any small passenger vessel operating in an RNA established in paragraph (a) of this section during the conditions described in paragraph (c)(4)(i)(A) of this section shall contact the Coast Guard on VHF-FM Channel 16 prior to crossing the bar. The master or operator shall report the following:

- (A) Vessel name,
- (B) Vessel location or position,
- (C) Number of persons on board the vessel and
- (D) Vessel destination.

(5) *Safety Requirements for Commercial Fishing Vessels (CFV)*. (i) The master or operator of any commercial fishing vessel operating in an RNA described in paragraph (a) of this section shall ensure that all persons located in any unenclosed areas of commercial fishing vessel are wearing lifejackets or immersion suits and that lifejackets or immersion suits are readily accessible for/to all persons located in any enclosed spaces of the vessel:

(A) Whenever crossing the bar and a bar restriction exists or

(B) Whenever the commercial fishing vessel is being towed or escorted across the bar.

(ii) The master or operator of any commercial fishing vessel operating in an RNA described in paragraph (a) of this section during the conditions described in paragraph (c)(5)(i)(A) of this section shall contact the Coast Guard on VHF-FM Channel 16 prior to crossing the bar. The master or operator shall report the following:

(A) Vessel name,

(B) Vessel location or position,

(C) Number of persons on board the vessel and

(D) Vessel destination.

(6) *Penalties.* All persons and vessels within the RNAs described in paragraph (a) of this section shall comply with orders of Coast Guard personnel. Coast Guard personnel includes commissioned, warrant, petty officers, and civilians of the United States Coast Guard. Any person who fails to comply with this regulation is subject to civil penalty in accordance with 46 U.S.C. 70036.

Dated: June 30, 2020

Peter W. Gautier,
Rear Admiral, U.S. Coast Guard,
Commander, Coast Guard District Eleven.

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