



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0800]

RIN 1625-AA87

Security Zone, Seward, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary moving security zone within 1000 yards of a designated vessel on the navigable waters of the U.S. in Resurrection Bay, Seward, Alaska during the visit of the President of the United States (POTUS) to the area. This action is necessary to provide security for the President and first family of the United States.

Unauthorized vessels and persons will be prohibited from entering or remaining in the security zones unless specifically authorized by the Captain of the Port (COTP) or the COTP's designated representative. A U.S. Coast Guard Broadcast Notice to Mariners (BNM) will be conducted during this time to identify

the vessel's name and location in which the security zone pertains.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 5 p.m. on September 2, 2015. For the purposes of enforcement, actual notice will be used from 8 a.m. on August 31, 2015 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0800]. 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 Lieutenant Eugene Chung, Coast Guard Sector Anchorage Waterways Management Division, U.S. Coast Guard; telephone (907) 428-4189 or e-mail [Eugene.Chung@uscg.mil](mailto:Eugene.Chung@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. 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 of the sensitive security issues related to the POTUS. Providing a public notice and comment period is contrary to national security concerns and the public interest. 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**. Any delay encountered in this temporary rule's effective date would be contrary to the public interest given the immediate need to ensure the safety and security of the POTUS and first family during their visit to Seward, Alaska from August 31, 2015 through September 02, 2015.

#### B. Basis and Purpose

The legal basis for this rule is 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; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

The POTUS and first family are scheduled to visit Seward, Alaska, from August 31, 2015 through September 02, 2015. It is expected that they will reside and/or participate in activities on properties that are adjacent to navigable waters within the Captain of the Port, Western Alaska zone. The U.S. Secret Service has requested that the Coast Guard provide 1000-yard moving security zone around the POTUS and the first family. This security zone is intended to provide security for the POTUS and first family by preventing vessels and persons from approaching the location of the POTUS and first family without prior authorization from the U.S. Secret Service.

### C. Discussion of the Temporary Final Rule

This temporary rule establishes a temporary moving security zone within 1000 yards of a designated vessel on the navigable waters of the U.S. in Resurrection Bay, Seward, Alaska from August 31, 2015 through September 02, 2015, during the visit of the POTUS and first family to Alaska. This rule is effective from 8 a.m. on Monday, August 31, 2015 through 5 p.m. on Wednesday, September 2, 2015. This action is intended to prohibit unauthorized vessels or persons from entering or remaining in navigable waters located within 1000 yards of the POTUS and/or first family while they are in or near the navigable waters of the U.S. during their visit to Seward, Alaska. The Captain of the Port, Western Alaska, anticipates negligible negative impact on vessel traffic from this temporary security zone, as they will be in effect for no more than three days, and will only be enforced while the POTUS and/or first family are in the vicinity of the navigable waters of the U.S. at Seward, Alaska. It has been determined that the necessary security enhancements provided by this rule greatly outweigh any potential negative impacts.

### 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 13536. The Office of Management and Budget has not reviewed it under those Orders. The rule is not a significant regulatory action because the security zone will be in place for a limited period, approximately three days and vessel traffic will be able to transit around the security zone. Maritime traffic may also request permission to transit through the zone from the Captain of the Port, Western Alaska or a designated representative.

#### 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 potential impact 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 may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit navigable waters in the vicinity of Seward, Alaska from 8:00 a.m. on Monday, August 31, 2015 through 5:00 p.m. on Wednesday, September 2, 2015. The security zone will not have a significant impact on a substantial number of small entities for the following reasons: The security zone is temporary and will be enforced only when the POTUS and/or first family are in the vicinity of the navigable waters of the U.S. at Seward, Alaska. Thus, the temporary nature and limited effective period and anticipated enforcement periods of the zone, coupled with the ability of the maritime public to maneuver around the zone, will allow small entities to plan and conduct their business accordingly.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If you think your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance,

please call Lieutenant Eugene Chung at (907) 428-4189.

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 calls for no 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 rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect 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 which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary moving security zone within 1000 yards of a designated vessel on the navigable waters of the U.S. in Resurrection Bay, Seward, Alaska. This rule is categorically excluded, from further review under paragraph (34) (g) of Figure 2-1 of the Commandant Instruction. 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), Reports and recordkeeping requirements, Security measures, and 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 Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T01-0800 to read as follows:

**§ 165.T01-0800 Security Zone: Seward, Alaska.**

(a) *Location.* The following areas are security zones: All navigable waters, from surface to bottom, within 1000 yards of the POTUS and/or first family while underway in, or on shore but within 1000 yards of, the navigable waters of the U.S. in the coastal areas of Seward, Alaska.

(b) *Notification.* Coast Guard Sector Anchorage will give actual notice to mariners for the purpose of enforcement of this temporary security zone.

(c) *Effective period.* This rule is effective for purposes of enforcement from 8:00 a.m. on Monday, August 31, 2015 through 5:00 p.m. on Wednesday, September 02, 2015.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(3) The ``designated representative'' is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, or onboard a federal, state, or local agency vessel that is authorized to act

in support of the Coast Guard.

(4) Upon being hailed by a U.S. Coast Guard vessel or a designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Vessel operators desiring to enter or operate within this security zone shall contact the Captain of the Port or his designated representative via VHF channel 16 to obtain permission to do so.

Dated: August 24, 2015

PAUL ALBERTSON  
Captain, U.S. Coast Guard  
Captain of the Port, Western Alaska

[FR Doc. 2015-21690 Filed: 8/31/2015 08:45 am; Publication Date:  
9/1/2015]