



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2016-0790]

RIN 1625-AA87

Security Zone; 22nd International Seapower Symposium, Goat Island, Newport, RI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone along the western shore of Goat Island, Newport, Rhode Island, including the vicinity of Newport Harbor Light at the northeastern point of Goat Island to and around the Goat Island Connector between Goat Island and Newport, Rhode Island, in conjunction with the 22nd International Seapower Symposium. Entry into this zone by any vessel or persons is prohibited unless specifically authorized by the Captain of the Port (COTP), Southeastern New England or the COTP's designated on-scene representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until September 23, 2016. For the purposes of enforcement, actual notice will be used from September 18, 2016 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0790 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 temporary rule, call or e-mail Mr. Edward G. LeBlanc at Sector Southeastern New England; telephone (401) 435-2351, e-mail Edward.G.LeBlanc@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
TFR	Temporary Final Rule
U.S.C.	United States Code

II. Background Information and Regulatory History

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 NPRM with respect to this rule. Because of the sensitive security issues related to these special events, the Coast Guard was not aware of the final details with

sufficient time to solicit public comments. Thus, waiting for a full comment period to run would inhibit the Coast Guard's ability to keep senior military leaders and government officials, along with the general public, safe from subversive acts directed at these high visibility special events. Providing a prolonged public notice and comment period is contrary to the public interest due to national security concerns.

We are issuing this rule, and 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 event attendees.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231; which authorizes the Coast Guard to define Security Zones.

This action is intended to temporarily prohibit vessel traffic from transiting within 250 yards of the western shore of Goat Island and within a 250 yard radius of Newport Harbor Light at the northeastern point of Goat Island and extending to 250 yards on either side of the Goat Island Connector between Goat Island and Newport, Rhode Island, to ensure the security of attendees to the 22nd International Seapower Symposium by properly safeguarding against potential sabotage, subversive acts, or other threats.

IV. Discussion of Comments, Changes, and the Rule

The 22nd International Seapower Symposium is being held on Goat Island, Newport, RI, from September 18 through September 23, 2016. High level U.S. officials and delegates from over 125 countries are expected to attend. Goat Island, the site of the

22nd International Seapower Symposium, is waterfront property in Newport, Rhode Island, within the Captain of the Port, Southeastern New England zone.

This rule establishes a temporary 250-yard security zone in the navigable waters adjacent to the western shore of Goat Island and in the vicinity of Newport Harbor Light at the northeastern point of Goat Island and extending to 250 yards on either side of the Goat Island Connector between Goat Island and Newport, Rhode Island, where the 22nd International Seapower Symposium is being held from September 18 through September 23, 2016. Vessels and persons will be prohibited from entering this security zone during the 22nd International Seapower Symposium. The perimeter of the security zone along the western shore and northeast point of Goat Island will be clearly marked by six special purpose white buoys with orange stripes. It has been determined that the necessary security enhancements provided by this rule greatly outweigh any potential negative impacts. Public notifications will be made prior to and during the entire effective period of this security zone via marine information broadcasts and local notice to mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders relating to rulemaking. Below we summarize our analyses based on 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 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 Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration of the event. The effect of this rule will be small, as the duration of the security zone is for only six days. Additionally, vessels may be permitted to transit and navigate in waters adjacent to this security zone, minimizing any adverse impact. Maritime advisories will be broadcast. The Coast Guard anticipates negligible negative impact on vessel traffic from this temporary security zone. It will be in effect for only six days and will only affect waters adjacent to the western shore, northeast end of Goat Island, and the Goat Island Connector where there are no major channels, slips, marinas, or other waterfront facilities for recreational or commercial traffic. Additionally, the security zone is in effect in mid- to late-September when there is reduced vessel activity in the vicinity of Goat Island and vessels can transit safely around the security zone and in all other waters of Newport Harbor.

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 certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule would not have a significant economic impact on any vessel owner or operator.

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 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 calls for no 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 would 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 contact 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 does 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 Management Directive 023-01 and Commandant Instruction M16475.ID, which guide 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 the establishment of a temporary 250-yard security zone in the navigable waters in the vicinity of Newport Harbor in conjunction with the 22nd International Seapower Symposium. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. An environmental analysis checklist and Categorical Exclusion Determination will be 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.

G. 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), Reports 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; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 165.T01-0790 to read as follows:

§ 165.T01-0790 Security Zone: Goat Island, Newport, Rhode Island.

(a) Location. The following area is a security zone: All navigable waters, from surface to bottom, within 250 yards of the western shore of Goat Island, Newport, Rhode Island, marked at its southern boundary by Goat Island Southwest Buoy “1” (U.S. Coast Guard Light List No. 17825) in approximate position 41°28’56.869” N, 71°19’45.865” W, and extending north parallel to the western shore to where it meets and includes an arc extending in a 250 yard radius around Newport Harbor Light (U.S. Coast Guard Light List No. 17850) at position 41°29’36.000” N, 071°19’37.800” W and extends to and includes waters within 250 yards on either side of the Goat Island Connector between Goat Island and Newport, Rhode Island.

(b) Effective and enforcement period. This rule will be effective and enforced from 8:00 a.m. on September 18, 2016 to 8:00 p.m. on September 23, 2016.

(c) Definitions. The following definitions apply to this section: “Designated on-scene patrol personnel” means any commissioned, warrant and petty officers of the Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port, Southeastern New England.

(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, Southeastern New England.

(3) All persons and vessels shall comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel.

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

(5) Persons and vessels may request permission to enter the zone on VHF-16.

Dated: August 31, 2016

J. A. SMITH

Commander, U.S. Coast Guard

Acting Captain of the Port, Southeastern New England

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