



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0770]

RIN 1625-AA87

Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing one temporary, 500-yard radius, moving security zone for certain vessel carrying Certain Dangerous Cargoes (CDC) within the Corpus Christi Ship Channel and the La Quinta Channel. The temporary security zone is needed to protect the vessels, the CDC cargo, and the surrounding waterway from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi or a designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF FILING FOR PUBLIC INSPECTION AT THE FEDERAL REGISTER], until September 18, 2023. For the purposes of enforcement, actual notice will be used from September 12, 2023, until [INSERT DATE OF FILING FOR PUBLIC INSPECTION AT 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-2023-0770 in the search box and

click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361-939-5130, e-mail Anthony.M.Garofalo@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Corpus Christi
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 it is impracticable. The Coast Guard must establish this security zone by September 12, 2023, to ensure security of this vessel and lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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***. Delaying the effective date of this rule would be contrary to the public interest because

immediate action is needed to provide for the security of these vessels.

III. Legal Authority and Need for Rule

The Coast Guard may issue security zone regulations under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the transit of the Motor Vessel (M/V) RIOJA KNUTSEN, when loaded, will be a security concern within a 500-yard radius of the vessel. This rule is needed to provide for the safety and security of the vessel, their cargo, and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature while it is transiting within Corpus Christi, TX, from September 12, 2023, through September 18, 2023.

IV. Discussion of the Rule

The Coast Guard is establishing one 500-yard radius temporary moving security zone around M/V RIOJA KNUTSEN. The vessel names will be clearly marked on the port, starboard, and stern. The zone for the vessel will be enforced from September 12, 2023, through September 18, 2023. The duration of the zone is intended to protect the vessel and cargo and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature. No vessel or person will be permitted to enter the security zones without obtaining permission from the COTP or a designated representative.

Entry into this security zone is prohibited unless authorized by the COTP or a designated representative, who will be on scene to enforce the security zone. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Corpus Christi. Persons or vessels desiring to enter or pass through the zone must request permission from the COTP or a designated representative on VHF-FM channel 16 or by telephone at 361-939-0450. If permission is granted, all persons and vessels shall comply

with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate for the enforcement times and dates for each security zone.

V. Regulatory Analyses

We 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. This rule has not been designated a “significant regulatory action,” under Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, duration, and location of the security zones. This rule will impact a small, designated area of 500-yards around the moving vessel in the Corpus Christi Ship Channel and the La Quinta Channel as the vessel transit the channel over a seven day period. Moreover, the rule allows vessels to seek permission to enter the zone.

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

While some owners or operators of vessels intending to transit the temporary security zones may be small entities, for the reasons stated in section V.A above, this rule will 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 (Pub. L. 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 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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 and Environmental Planning COMDTINST 5090.1 (series), 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 moving security zones lasting for the duration of time that the M/V RIOJA KNUTSEN is within the Corpus Christi Ship Channel and La Quinta Channel while loaded with cargo. It will prohibit entry within a 500-yard radius of M/V RIOJA KNUTSEN while the vessel is transiting loaded within Corpus Christi

Ship Channel and La Quinta Channel. It is categorically excluded from further review under L60(a) in 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. 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 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: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T08-0770 to read as follows:

§165.T08-0770 Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX.

(a) *Location.* The following area is a moving security zone: All navigable waters encompassing a 500-yard radius around the M/V RIOJA KNUTSEN while the vessel is in the Corpus Christi Ship Channel and La Quinta Channel.

(b) *Enforcement period.* This section will be enforced from September 12, 2023,

through September 18, 2023.

(c) *Regulations.* (1) The general regulations in § 165.33 apply. Entry into the zone is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons or vessels desiring to enter or pass through the zones must request permission from the COTP Sector Corpus Christi on VHF-FM channel 16 or by telephone at 361-939-0450.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for these security zones.

Dated: September 12, 2023.

Jason Gunning,

Captain, U.S. Coast Guard,

Captain of the Port, Sector Corpus Christi.