



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0385]

RIN 1625-AA87

Security Zone; Helicopter Crash, Read Island, AK

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for all navigable waters within a 2 nautical miles radius of Read Island, AK, centered at Latitude: 57°06'48.3"N, Longitude: 133°11'43.4"W, where a MH-60 Jayhawk Helicopter crashed (CG-6016), early on Tuesday, November 14, 2023. This security zone is needed to protect and preserve the crash site of the MH-60 Helicopter wreck. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Southeast Alaska or a designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through January 13, 2024. For the purposes of enforcement, actual notice will be used from November 14, 2023, through [INSERT 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-2023-0385 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 LT Catherine E. Cavender, Sector Southeast Alaska Waterways Management Division, U.S. Coast Guard; telephone 907-463-2846, email Catherine.E.Cavender@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
COTP	Captain of the Port Sector Southeast Alaska
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
NM	Nautical Miles
COTP	Captain of the Port
DNR	Alaska Department of Natural Resources

II. Background Information and Regulatory History

On November 14, 2023, a Coast Guard MH-60 Jayhawk Helicopter crashed on Read Island, AK, while responding to a disabled vessel. The MH-60 helicopter is still on Read Island and must remain in place for the appropriate investigations and hazardous materials cleanup to take place. The purpose of the temporary security zone is to facilitate the security and preserve the crash site of the MH-60 helicopter.

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 immediate action is needed to facilitate the ongoing investigation at the crash site. Publishing a NRPM is impracticable and contrary to public interest because the security

zone must be established as soon as possible to enhance public and maritime safety and security and to protect personnel, vessels, and the marine environment in the navigable waters within the security zone from potential hazards created by the MH-60 Helicopter crash site.

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 impracticable because immediate action to restrict vessel traffic is needed to protect the MH-60 Helicopter crash site, mitigate potential maritime threats, and enhance maritime safety and security.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port Sector Southeast Alaska (COTP) has determined that potential hazards associated with ongoing salvage and safety investigation measures, will be a safety concern for anyone within a 2 nautical miles radius of Read Island, centered at Latitude: 57°06'48.3"N, Longitude: 133°11'43.4"W. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the security zone from potential hazards created by the MH-60 Helicopter crash site.

IV. Discussion of the Rule

This rule establishes a security zone from 5 p.m. November 14, 2023, until 11:59 p.m. on January 13, 2024. The security zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the hazardous materials cleanup at the MH-60 Helicopter crash site and the ongoing safety investigation. The security zone will cover all navigable waters within a 2 nautical miles radius of Read Island, centered at Latitude: 57°06'48.3"N, Longitude: 133°11'43.4"W to conduct salvage and gather evidence pursuant to the safety investigation. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable

waters during the hazardous materials cleanup and during the safety investigation. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or a designated representative.

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 section 3(f) of 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, remote location, and 60-day duration of the security zone. Vessel traffic will be able to safely transit around this security zone which would impact a designated area of Farragut Bay for 60 days when vessel traffic is normally low due to deteriorating weather and reduced daylight. The surrounding land and islands are owned predominantly by the United States Forest Service via Tongass National Forest and the State of Alaska Department of Natural Resources (DNR) owns Read Island. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine Channel 16 about the zone, and local Coast Guard assets enforcing the zone would reiterate the rule. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions vessels may still transit through the security zone when permitted by 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 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 security zone 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 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.

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 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 a security zone lasting only 60 days that will prohibit entry within a 2 nautical miles radius of Read Island, centered at Latitude: 57°06'48.3"N, Longitude: 133°11'43.4"W, where ongoing salvage and safety investigation measures occur. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1.

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, 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.T017-0385 to read as follows:

§ 165.T017-0385 Security Zone; Helicopter Crash, Read Island, AK.

(a) *Location.* The following area is a security zone: All navigable waters within a 2 nautical miles radius of Read Island, AK, centered at Latitude: 57°06'48.3"N,

Longitude: 133°11'43.4"W.

(b) *Definitions.* As used in this section, the term *designated representative* means a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of U.S. Coast Guard Sector Southeast Alaska.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zone described in paragraph (a) of this section unless authorized by the Captain of the Port Southeast Alaska (COTP) or the COTP's designated representative.

(2) Vessels requiring entry into the security zone must request permission from the COTP or a designated representative. To seek entry into the security zone, contact the COTP or the COTP's representative by telephone at (907) 463-2991 or on VHF-FM Channel 16.

(3) Persons and vessels permitted to enter the security zone must transit at slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Enforcement period.* This section will be enforced from 5 p.m. November 14, 2023, through 11:59 p.m. on January 13, 2024.

Darwin A. Jensen,
Captain, U.S. Coast Guard,
Captain of the Port, Sector Southeast Alaska.

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