

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[CGD05-04-106]

RIN 1625-AA00

Security Zone; Georgetown Channel, Potomac River, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the waters of the upper Potomac river. This action is necessary to provide for the security of an anticipated 400,000 visitors to the annual July 4th celebration on the National Mall in Washington, DC. The security zone will allow for control of a designated area of the river and safeguard spectators and participants.

DATES: This rule is effective from 12:01 a.m. (local) through 11:59 p.m. (local) on July 4, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05-04-106 and are available for inspection or copying at Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Building 70, Baltimore, Maryland 21226, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dulani Woods, Ports and Waterways Department, Port Safety and Security Branch, Phone: (410) 576-2513 or 2693.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Delaying this regulation to allow for public notice and comment would be contrary to public interest. It is in the public interest to appropriately regulate the movement of vessels on the Upper Potomac River in order to improve security for this significant event.

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**. This temporary zone is of short duration and is necessary to provide for the security in a designated area. To delay the effective date would be

contrary to the public interest. In addition, advance notice will be made via marine information broadcast and local media.

Background and Purpose

On July 4, 2004, an anticipated 400,000 visitors will attend the annual July 4th celebration on the National Mall in Washington, D.C. This security zone is necessary to manage the large number of vessels on the waterway and will allow for control of the designated area and safeguard spectators and participants.

Discussion of Rule

This rule designates a portion of the Potomac River from the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge complex) to the Theodore Roosevelt Memorial Bridge and all water in between as a security zone. Vessels may be allowed to enter this area, but may only do so with the permission of the Captain of the Port or his designated representatives. The Captain of the Port will make additional notifications via maritime advisories.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this rule creates a security zone, the effects of this rule will not be significant due to the limited duration of the regulation, the limited size of the designated area, and the extensive notifications that will be made to the maritime community via marine information broadcasts and local media. In addition, at the direction of the Captain of the Port or his designated representatives, mariners will be allowed to transit the designated area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the Georgetown Channel, Potomac River from 12:01 a.m. to 11:59 p.m. on July 4, 2004.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for less than twenty-four hours. Although the security zone will apply to the entire width of the river, traffic will be allowed to pass through the zone at the direction of the Coast Guard Captain of the Port or his designated representatives. Additionally, the Coast Guard will make notifications via marine advisories so that mariners can adjust their plans accordingly.

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. Small entities desiring assistance with understanding this rulemaking can receive assistance by contacting the Coast Guard using the information under **ADDRESSES**.

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).

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).

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.

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 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.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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.

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.

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect

on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because this rulemaking is a security zone less than one week in duration. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine security, Navigation (water), Reporting and record keeping 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 12:01 a.m. to 11:59 p.m. on July 4, 2004, add temporary § 165.T05–106 to read as follows:

§ 165.T05–106 Security zone; Georgetown Channel, Potomac River, Washington, DC.

(a) *Location.* The following area is a security zone: The waters of the Georgetown Channel of the Potomac River, from the surface to the bottom, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge complex) to the Theodore Roosevelt Memorial Bridge, including the waters of the Georgetown Channel Tidal Basin.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels entering into or passing within the zone must follow the directions of the Captain of the Port, Baltimore, Maryland, or his designated representatives. Designates representatives include any Coast Guard commissioned, warrant, or petty officer.

(3) The operator of any vessel within this zone shall:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or his designated representative, and

(ii) Proceed as directed by the Captain of the Port or his designated representative.

(iii) If permitted to transit the zone by the Captain of the Port or his designated representative, proceed at the minimum speed necessary to maintain a safe course while within the zone.

(iv) Persons desiring to contact the Captain of the Port may do so at telephone number (410) 576–2693 or via VHF Marine Band Radio channel 16 (156.8 MHz).

(c) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) *Effective Date.* The zone is effective from 12:01 a.m. (local) to 11:59 p.m. (local) on July 4, 2004.

Dated: June 17, 2004.

Curtis A. Springer,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

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