

Patrol Commander via VHF/FM radio, Channel 16 or by telephone at (216) 937-0111.

Dated: July 2, 2003.

Lorne W. Thomas,

Commander, U.S. Coast Guard, Captain of the Port Cleveland.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-03-072]

RIN 1625-AA00

Security Zone; Bogue Sound, Morehead City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around the grounds of the North Carolina State Port Authority Terminal at Morehead City south of Highway 70 and the waters of Beaufort Inlet Bogue Sound. This action is necessary to provide security for vessels involved in loading or offloading operations and the State Port Authority Terminal during a military operation. The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via Bogue Sound or the North Carolina State Port Authority Terminal.

DATES: This rule is effective from 8 a.m. EST on June 13, 2003, to 11:59 p.m. EST on December 13, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD-05-03-072 and are available for inspection or copying at Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Diego Benavides, Port Security, (910) 772-2232.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. The Coast Guard is promulgating these security zone regulations to protect vessels loading or offloading and the surrounding vicinity for reasons directly related to military

operations and national security. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation. This temporary security zone is necessary to provide for the security of the United States.

Background and Purpose

The security zone is designed to prevent access by unauthorized persons who may attempt to enter the secure area via Bogue Sound and the North Carolina State Port Authority terminal.

Discussion of Rule

For security reasons, this rule limits access to the regulated area to those vessels and persons authorized to enter and operate within the security zone. The Captain of the Port or her designated representative may authorize access to the security zone. Mariners must contact the control vessel on VHF-FM channel 16 to request access to transit through the regulated area. In addition, the Coast Guard will make notifications via maritime advisories.

Regulatory Evaluation

This proposed 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 regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) The COTP or her representative may authorize access to the security zone; (ii) the security zone will be in effect for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 and operators of vessels intending to transit or anchor within the security zone while it is in effect. The security zone encompasses the water areas of Beaufort Inlet and Bogue Sound within a line connecting the following points: beginning at 34°42'53" N, 076°41'12" W (Point 1); extending north along the western shore of Radio Island to 34°43'24" N, 076°41'9" W (Point 2); extending westward 2300 yards to 34°43'16" N, 076°42'48" W (Point 3); extending approximately 400 yards west to 34°43'8" N, 076°43' W (Point 4); extending south approximately 760 yards to 34°42'74" N, 076°83' W (Point 5); extending southeast approximately 2450 yards to 34°41'94" N, 076°41'68" W (Point 6); extending northeast approximately 1000 yards 34°42'53" N, 076°41'12" W (Point 1). And personnel attempting to enter the portion of the grounds of the North Carolina State Port Authority Terminal at Morehead City south of Highway 70 while the security zone is in effect.

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 this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed 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 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 would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).