

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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Environment**

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under **ADDRESSES**.

**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:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Revise temporary § 165.T08-035 paragraphs (b) and (d) to read as follows:

**§ 165.T08-035 Security Zones; Ports of Houston and Galveston, Texas.**

\* \* \* \* \*

(b) *Effective dates.* This section is effective from 12 a.m. (noon) on April 8, 2002 through 8 a.m. on October 15, 2002.

\* \* \* \* \*

(d) *Regulations.* (1) Entry of persons or vessels into this zone is prohibited unless authorized as follows.

(i) Vessels may enter within 500 yards but not closer than 100 yards of a cruise ship provided they operate at the minimum speed necessary to maintain a safe course.

(ii) No person or vessel may enter within 100 yards of a cruise ship unless expressly authorized by the Coast Guard Captain of the Port Houston-Galveston. Where the Houston Ship Channel

narrows to 400 feet or less between Houston Ship Channel Entrance Lighted Bell Buoy "18", light list no. 34385 at approximately 29°21'06" N, 94°47'00" W [NAD 83] and Barbours Cut, the Captain of the Port Houston-Galveston may permit vessels that must transit the navigable channel between these points to enter within 100 yards of a cruise ship.

(iii) Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 yards of a cruise ship while it is in transit.

(2) Vessels requiring entry within 500 yards of a cruise ship that cannot slow to the minimum speed necessary to maintain a safe course must request express permission to proceed from the Captain of the Port Houston-Galveston, or his designated representative.

(3) For the purpose of this section the term "cruise ship" is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

(4) The Captain of the Port Houston-Galveston will inform the public of the moving security zones around cruise ships via Marine Safety Information Broadcasts.

(5) To request permission as required by this section contact "Houston Traffic" via VHF Channels 11/12 or via phone at (713) 671-5103.

(6) All persons and vessels within the moving security zone shall comply with the instructions of the Captain of the Port Houston-Galveston and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

\* \* \* \* \*

Dated: May 29, 2002.

**Kevin S. Cook,**

*Captain, U.S. Coast Guard, Captain of the Port Houston Galveston.*

[FR Doc. 02-14561 Filed 6-10-02; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

[CGD09-01-130]

RIN 2115-AA97

**Security Zone; Lake Erie, Perry, OH**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule; change in effective period.

**SUMMARY:** The Coast Guard is revising the effective period for a temporary security zone in the Captain of the Port Cleveland zone for the Perry Nuclear Power Plant. This security zone is necessary to protect the Perry Nuclear Power Plant from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. This security zone is intended to restrict vessel traffic from a portion of Lake Erie.

**DATES:** The revision of § 165.T09-111(b) is effective June 11, 2002. Section 165.T09-111, added at 66 FR 52043, October 12, 2001, effective October 12, 2001, until June 15, 2002, is extended in effect through August 1, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09-01-130 and are available for inspection or copying at U.S. Coast Guard Marine Safety Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44126 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at telephone number (216) 937-0111.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On October 12, 2001, we published a temporary final rule entitled Security Zone: Lake Erie, Perry, Ohio in the **Federal Register** (66 FR 52043). The temporary final rule established a temporary security zone in the Captain of the Port Cleveland zone for the Perry Nuclear Power Plant. This security zone is necessary to protect this nuclear power plant from possible sabotage or other subversive acts, accidents, or possible acts of terrorism.

We are extending the effective period of the temporary final rule so that we can complete a rulemaking CGD09-02-006 Security Zone; Lake Erie, Perry, OH (67 FR 36554, May 24, 2002) to establish a permanent security zone for Perry

Nuclear Power Plant. Extending the effective date until August 1, 2002 should provide us enough time to complete the rulemaking.

We did not publish a notice of proposed rulemaking (NPRM) for this rule and it is being made effective less than 30 days after publication in the **Federal Register**. When we promulgated the October 1, 2001 rule, we intended to either allow it to expire on June 15, 2002, or to cancel it if we made permanent changes before that date. We published an NPRM on May 24, 2001 to make permanent changes to the temporary final rule (67 FR 36554). That rulemaking will follow normal notice and comment procedures, and a final rule should be published before August 1, 2002. Continuing the temporary final rule in effect while the permanent rulemaking is in progress will help ensure the safety of critical infrastructure that may be the subject of subversive activity. Nuclear power plants are an important means of electrical energy in the region. In addition, they could be a source of severe radiological contamination throughout the region. Therefore, the Coast Guard finds good cause under 5 U.S.C. 553 (b)(B) and (d)(3) for why a notice of proposed rulemaking and opportunity for comment is not required and why this rule will be made effective fewer than 30 days after publication in the **Federal Register**.

### Background and Purpose

A temporary security zone is necessary to ensure the security of the Perry Nuclear Power Plant, as a result of the terrorist attacks on the United States on September 11, 2001. The security zone consists of all navigable waters of Lake Erie bound by a line drawn between the following coordinates beginning at 41°48'6" N, 081°09'6" W; due north to 41°48'36" N, 081°09'6" W; due east to 41°49'0" N, 081°07'54" W; due south to the south shore of Lake Erie at 41°48'36" N, 081°07'54" W; thence westerly along south shore back to the beginning. These coordinates are based upon North American Datum 1983 (NAD 83). Entry into, transit through or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Cleveland or his designated on-scene representative. The designated on-scene representative will be the Patrol Commander and may be contacted via VHF/FM Marine Channel 16.

### 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 Transportation (DOT) (44 FR 11040, February 26, 1979). This is a temporary rule and vessels will be able to transit around the security zone. In addition, vessels may request permission from the Captain of the Port to transit through the security zone.

### 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.

For reasons stated in the Regulatory Evaluation, 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.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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 Marine Safety Office Cleveland (see **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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

The Coast Guard considered the environmental impact of this regulation and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subject in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out 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(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. In § 165.T09-111, paragraph (b) is revised to read as follows:

#### § 165.T09-111 Security Zone; Lake Erie, Perry, OH.

\* \* \* \* \*

(b) *Effective time and date.* This section is effective from October 1, 2001, through August 1, 2002.

\* \* \* \* \*

Dated: May 31, 2002.

**R.J. Perry,**

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

[FR Doc. 02-14555 Filed 6-10-02; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Houston-Galveston-02-011]

RIN 2115-AA97

#### Security Zones; Captain of the Port Houston-Galveston Zone

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Captain of the Port Houston-Galveston is establishing security zones within the ports of Houston, Bayport, Texas City and Freeport, Texas. These zones are being established to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Entry into these zones is prohibited except for vessels described in this rule or vessels that have obtained the express permission of the Captain of the Port Houston-Galveston or his designated representative.

**DATES:** This rule is effective from 6 a.m. on May 20, 2002 through 6 a.m. on October 15, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP Houston-Galveston-02-011] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Houston-Galveston, 9640 Clinton Dr, Galena Park, TX 77547 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG George Tobey, Port Waterways Management, Marine Safety Office Houston-Galveston, TX at (713) 671-5100.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

The catastrophic nature of, and resulting devastation from, the September 11, 2001 attacks on the World Trade Center towers in New York City and the Pentagon in Washington, DC, makes this rulemaking necessary for the protection of national security interests. National security and intelligence officials warn that future

terrorist attacks against United States interests are likely. Any delay in making this regulation effective would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property. The Coast Guard will, during the effective period of this temporary final rule, complete notice and comment rulemaking for a proposed permanent regulation. Elsewhere in today's issue of the **Federal Register**, we have published a NPRM, entitled "Security Zones; Captain of the Port Houston-Galveston Zone" (docket number COTP Houston-Galveston-02-009).

#### Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. In response to these terrorist acts, heightened awareness and security of our ports and harbors is necessary. To enhance security the Captain of the Port Houston-Galveston is establishing security zones.

This rule establishes distinct security zones within the ports of Houston, Bayport, Texas City and Freeport, TX. These zones are being established to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Vessels operating within the Captain of the Port Houston-Galveston Zone are potential targets of terrorist attacks, or platforms from which terrorist attacks may be launched upon other vessels, waterfront facilities and adjacent population centers.

These zones are being established around areas concentrated with commercial facilities considered critical to national security. This rule is designed to restrict access to vessels engaged, or assisting in commerce with waterfront facilities within the security zones, vessels operated by port authorities, vessels operated by waterfront facilities within the security zones, and vessels operated by federal, state, county or municipal agencies. By limiting access to these areas the Coast Guard is reducing potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within the zones. Vessels having a need to enter these zones but prohibited from doing so under this rule, must obtain express permission from the Captain of the Port Houston-Galveston or his designated representative prior to entry.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs