

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

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).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Vessels engaged or assisting, in commerce with facilities located within the zones or having the express permission of the Captain of the Port Houston-Galveston, are authorized entry under this rule.

### 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 security zone will not have an impact on a substantial number of small entities because this rule will not obstruct the regular flow of commercial vessel traffic conducting business within the zones. Other vessels may seek permission for entry into the zone from the Captain of the Port Houston-Galveston. If you are a small business entity and are significantly affected by the regulation please contact LTJG George Tobey at U.S. Coast Guard Marine Safety Office Houston-Galveston, TX at (713) 671–5100.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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.

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 so discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not affect 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

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. A new temporary § 165.T08–050 is added to read as follows:

### § 165.T08–050 Security Zones; Captain of the Port Houston-Galveston Zone.

(a) **Location.** The following areas are designated as security zones:

(1) **Freeport, TX.** (i) The Dow Barge Canal containing all waters bounded by its junction with the Intracoastal Waterway, by a line drawn between the eastern point at latitude 28°56'27" N, 95°18'12" W, and the western point at 28°56'22" N, 95°18'20" W (NAD 1983).

(ii) The *Brazos Harbor* containing all waters west of a line drawn between the northern point at 28°56'15" N, 95°20'03" W, and the southern point 28°56'02" N, 95°20'03" W (NAD 1927) at its junction with the Old Brazos River Cut.

(2) *Texas City, TX.* The Port of Texas City Channel, Turning Basin and Industrial Canal containing all waters bounded by the area south and west of a line drawn between Cut B Inner Range Rear Light (LLNR 24770), and Texas City Channel Light 19 (LLNR 24810).

(3) *Bayport, TX.* The Port of Bayport, Bayport Ship and Bayport Turning Basin containing all waters south of a line drawn from Bayport Ship Channel Light 9 (LLNR-23295) and a western point at 29°36'26" N, 95°01'17" W (NAD 1983).

(4) *Houston, TX.* The Houston Ship Channel and all associated turning basins, bounded by a line drawn between Houston Ship Channel Light 132 (LLNR-24445) and Houston Ship Channel Light 133 (LLNR-24450) west to the T & N Rail Road Swing Bridge at the entrance to Buffalo Bayou, including all waters adjacent to the ship channel from shoreline to shoreline and the first 200 yards of connecting waterways.

(b) *Effective dates.* This rule is effective from 6 a.m. on May 20, 2002 through 6 a.m. on October 15, 2002.

(c) *Regulations.* (1) Entry into these zones is prohibited except for the following:

(i) Commercial vessels operating at waterfront facilities within these zones;

(ii) Commercial vessels transiting directly to or from waterfront facilities within these zones;

(iii) Vessels providing direct operational/logistic support to commercial vessels within these zones;

(iv) Vessels operated by the appropriate port authority or by facilities located within these zones; and

(v) Vessels operated by federal, state, county, or municipal agencies.

(2) Other persons or vessels requiring entry into a zone described in this section must request express permission to enter from the Captain of the Port Houston-Galveston, or his designated representative.

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

(4) All persons and vessels 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 20, 2002.

**K.S. Cook,**

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

[FR Doc. 02-14559 Filed 6-10-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP New Orleans-02-004]

RIN 2115-AA97

#### Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary moving security zones around cruise ships entering and departing the Lower Mississippi River (LMR) from Southwest Pass sea buoy to mile marker 96.0. These security zones are needed for the safety and security of these vessels. Entry into these zones is prohibited, unless authorized by the Captain of the Port New Orleans or his designated representative.

**DATES:** This rule is effective from 8 a.m. on May 29, 2002, through 8 a.m. on October 15, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP New Orleans-02-004] and are available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant (LT) Ricardo Alonso, Marine Safety Office New Orleans, Port Waterways Management, at (504) 589-4222.

#### 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 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**.

Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to the security

concerns which are associated with the transit of these passenger vessels. The Coast Guard will, during the effective period of this temporary final rule, complete notice and comment rulemaking for permanent regulations. Elsewhere in today's issue of the

**Federal Register**, we have published a NPRM, entitled "Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, Louisiana" for a proposed permanent rule (docket number COTP New Orleans-02-005).

#### Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. National security and intelligence officials have warned that future terrorist attacks against civilian targets may be anticipated. In response to these terrorist acts and warnings, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary. Due to the increased safety and security concerns surrounding the transit of cruise ships, the Captain of the Port, New Orleans is establishing temporary security zones around these vessels.

For the purpose of this rule 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. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

The moving security zones will commence when a cruise ship passes the Southwest Pass Entrance Lighted Buoy "SW" inbound and continues through its transit, mooring, and return transit until it passes the sea buoy outbound. The establishment of moving security zones described in this rule will be announced to mariners via Marine Safety Information Broadcast. No vessel may operate within 500 yards of a cruise ship unless operating at the minimum safe speed required to maintain a safe course. Except as described in this rule, no person or vessel is permitted to enter within 100 yards of a cruise ship unless expressly authorized by the Captain of the Port, New Orleans. 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.