

1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available in the docket 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 proposes to amend 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. Add § 165.813 to read as follows:

#### § 165.813 Security Zones; Ports of Houston and Galveston, Texas.

(a) *Location.* Within the Ports of Houston and Galveston, Texas, moving security zones are established encompassing all waters within 500 yards of a cruise ship between Galveston Bay Approach Lighted Buoy "GB", at approximate position 29°21'18" N, 94°37'36" W [NAD 83] and up to, and including, Barbours Cut. These zones remain in effect during the inbound and outbound transit of the cruise ship and continues while the cruise ship is moored or anchored.

(b) *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 these regulations 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.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: May 29, 2002.

**K.S. Cook,**

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

[FR Doc. 02–14562 Filed 6–10–02; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Houston-Galveston–02–009]

RIN 2115-AA97

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

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish security zones within the Ports

of Houston, Morgan's Point, Bayport, Texas City, and Freeport, Texas. These zones are needed to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Entry into these zones would be prohibited except for vessels described in our proposed rule or vessels that have obtained the express permission of the Captain of the Port Houston-Galveston or his designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before August 12, 2002.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office Houston-Galveston, 9640 Clinton Drive, Galena Park, TX, 77547. Marine Safety Office Houston-Galveston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Houston-Galveston between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade (LTJG) George Tobey, Marine Safety Office Houston-Galveston, Texas, Port Waterways Management, at (713) 671–5100.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP Houston-Galveston–02–009], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Houston-Galveston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time

and place announced by a separate notice in the **Federal Register**.

### 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, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary. The Captain of the Port, Houston-Galveston established temporary security zones around highly industrialized areas within the Captain of the Port, Houston-Galveston Zone [COTP Houston-Galveston-02-011]. (See temporary final rule entitled "Security Zones; Captain of the Port Houston-Galveston Zone" published elsewhere in today's issue of the **Federal Register**.)

Because the generalized high-level threat environment continues, the Captain of the Port Houston-Galveston has determined that there is a need for these security zones to remain in effect indefinitely. The proposed rule will establish permanent security zones identical to, and in the same location as, the temporary security zones previously established in the Captain of the Port Houston-Galveston Zone. The proposed rule also establishes a permanent security zone at Barbours Cut in Morgan's Point, Texas.

### Discussion of Proposed Rule

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. The Ports of Houston, Morgan's Point, Bayport, Texas City, and Freeport are all heavily industrialized areas with general cargo facilities, container terminals, and bulk liquid transfer facilities.

The proposed rule establishes security zones around areas concentrated with commercial facilities considered critical to national security. These facilities are located in narrow manmade harbors or along narrow depth-restricted ship channels. Any waterway closure within these security zones resulting from a terrorist attack could have a significant adverse impact on national security and the national economy.

The proposed security zones are as follows:

(1) *Houston, Texas*. 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.

(2) *Morgan's Point, Texas*. The Barbours Cut Ship Channel and Turning Basin containing all waters west of a line drawn between Junction Light "Barbours Cut" 29°41'12" N, 94°59'12" W, and Houston Ship Channel Light 91, 29°40'58" N, 94°58'59" W.

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

(4) *Texas City, Texas*. 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, and Texas City Channel Light 19.

(5) *Freeport, Texas*. 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°56'48" N, 95°18'20" W, and the western point at 28°56'40" N, 95°18'33" W. And the Brazos Harbor, containing all waters west of a line drawn between the northern point at 28°56'27" N, 95°20'00" W, and the southern point 28°56'09" N, 95°20'00" W at its junction with the Old Brazos River Cut.

This proposed rule will increase the level of security within the ports by reducing the number of vessels transiting the industrialized areas and limiting access to only those vessels that are conducting business with port industries. It restricts 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. 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. Restricting access to these areas reduces potential methods of attack on vessels, waterfront facilities and adjacent population centers located within these zones.

### Regulatory Evaluation

This proposed 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The impacts on routine navigation are expected to be minimal. Due to the highly industrialized nature of these zones they are of limited interest to recreational boaters. Vessels engaged or assisting in commerce with facilities located within a zone 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 proposed rule would not have a significant economic impact on a substantial number of small entities. These security zones 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 zones from the Captain of the Port Houston-Galveston. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking.

If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG George Tobey, Marine Safety Office Houston-Galveston, Texas, Port Waterways Management, at (713) 671-5100.

### Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to

safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### Energy Effects

We have analyzed this proposed 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 proposed 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 because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available in the docket 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 proposes to amend 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. Add § 165.814 to read as follows:

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

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

(1) *Houston, Texas.* 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.

(2) *Morgan's Point, Texas.* The Barbours Cut Ship Channel and Turning Basin containing all waters west of a line drawn between Junction Light "Barbours Cut" 29°41'12" N, 94°59'12" W (LLNR-23525), and Houston Ship Channel Light 91, 29°40'58" N, 94°58'59" W (LLNR-23375) (NAD 1983).

(3) *Bayport, Texas.* 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) *Texas City, Texas.* 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).

(5) *Freeport, Texas.* (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°56'48" N, 95°18'20" W, and the western point at 28°56'40" N, 95°18'33" W (NAD 1983).

(ii) The *Brazos Harbor* containing all waters west of a line drawn between the northern point at 28°56'27" N, 95°20'00" W, and the southern point 28°56'09" N, 95°20'00" W (NAD 1983) at its junction with the Old Brazos River Cut.

(b) *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 29, 2002.

**K.S. Cook,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP St. Louis-02-005]

RIN 2115-AA97

#### Security Zones; Captain of the Port St. Louis, MO

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish five security zones throughout the Captain of the Port St. Louis Zone. These security zones are needed to protect the Fort Calhoun Nuclear Power Station in Fort Calhoun, Nebraska, the Cooper Nuclear Station in Brownville, Nebraska, the Quad Cities Generating Station in Cordova, Illinois, the Prairie Island Nuclear Generating Facility in Welch, Minnesota, and the Clinton Power Station in Clinton, Illinois from subversive actions by any group or groups of individuals whose objective it is to cause disruption to the daily operations of these facilities. Entry into any of these security zones is prohibited unless authorized by the Captain of the Port St. Louis or his designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before August 12, 2002.

**ADDRESSES:** You may mail comments and related material to: Commanding Officer, USCG Marine Safety Office St. Louis, Suite 8.104E, 1222 Spruce St., St. Louis, MO 63103-2835. Marine Safety Office St. Louis maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office St. Louis, Suite 8.104E, 1222 Spruce St., St. Louis, MO between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade (LTJG) Bill Clark, Marine Safety Office St. Louis at (314) 539-3091, ext. 541.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP St. Louis-02-005], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office St. Louis at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

##### 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 are anticipated. In response to these

terrorist acts and warnings, heightened awareness and security of our ports and harbors is necessary. The Captain of the Port St. Louis is proposing to make three existing temporary security zones permanent and create two additional permanent security zones.

The three temporary security zones the Captain of the Port St. Louis proposes to make permanent are: the Fort Calhoun Nuclear Power Station zone on the Missouri River in Fort Calhoun, Nebraska, published in the **Federal Register** March 7, 2002 (67 FR 10325); the Cooper Nuclear Station zone on the Missouri River in Brownville, Nebraska, published March 7, 2002 (67 FR 10324); and the Quad Cities Generating Station zone on the Mississippi River in Cordova, Illinois, published February 28, 2002 (67 FR 9207).

The proposed rule would establish two new security zones for the Prairie Island Nuclear Generating Station in Welch, Minnesota and the Clinton Power Station in Clinton, Illinois.

##### Discussion of Proposed Rule

Permanent security zones are proposed for five locations within the Captain of the Port St. Louis Zone.

(1) *Fort Calhoun Nuclear Power Station, Fort Calhoun, Nebraska.* This proposed zone includes all water extending 75 feet from the shoreline of the right descending bank on the Missouri River, beginning at mile marker 645.6 and ending at mile marker 646.0.

(2) *Cooper Nuclear Station, Brownville, Nebraska.* This proposed zone includes all water extending 250 feet from the shoreline of the right descending bank on the Missouri River, beginning at mile marker 532.5 and ending at mile marker 532.9.

(3) *Quad Cities Generating Station, Cordova, Illinois.* This proposed zone includes all water extending 300 feet from the shoreline of the left descending bank on the Upper Mississippi River, beginning at mile marker 506.3 and ending at mile marker 507.3.

(4) *Prairie Island Nuclear Generating Facility, Welch, Minnesota.* This proposed zone includes all water extending 300 feet from the shoreline of the right descending bank on the Upper Mississippi River, beginning at mile marker 798.0 and ending at mile marker 798.3.

(5) *Clinton Power Station, Clinton, Illinois.* This proposed zone in Dewitt County in East Central Illinois is bounded by a dam constructed near the confluence of Salt Creek River mile 56 and the north fork of Salt Creek. The zone extends out 600 feet from shore.