

(b) A furlough will only be approved if an inmate agrees to the following conditions and understands that, while on furlough, he/she:

(1) Remains in the legal custody of the U.S. Attorney General, in service of a term of imprisonment;

(2) Is subject to prosecution for escape if he/she fails to return to the institution at the designated time;

(3) Is subject to institution disciplinary action, arrest, and criminal prosecution for violating any condition(s) of the furlough;

(4) May be thoroughly searched and given a urinalysis, breathalyzer, and other comparable test, during the furlough or upon return to the institution, and must pre-authorize the cost of such test(s) if the inmate or family members are paying the other costs of the furlough. The inmate must pre-authorize all testing fee(s) to be withdrawn directly from his/her inmate deposit fund account;

(5) Must contact the institution (or United States Probation Officer) in the event of arrest, or any other serious difficulty or illness; and

(6) Must comply with any other special instructions given by the institution.

(c) While on furlough, the inmate must not:

(1) Violate the laws of any jurisdiction (federal, state, or local);

(2) Leave the area of his/her furlough without permission, except for traveling to the furlough destination, and returning to the institution;

(3) Purchase, sell, possess, use, consume, or administer any narcotic drugs, marijuana, alcohol, or intoxicants in any form, or frequent any place where such articles are unlawfully sold, dispensed, used, or given away;

(4) Use medication that is not prescribed and given to the inmate by the institution medical department or a licensed physician;

(5) Have any medical/dental/surgical/psychiatric treatment without staff's written permission, unless there is an emergency. Upon return to the institution, the inmate must notify institution staff if he/she received any prescribed medication or treatment in the community for an emergency;

(6) Possess any firearm or other dangerous weapon;

(7) Get married, sign any legal papers, contracts, loan applications, or conduct any business without staff's written permission;

(8) Associate with persons having a criminal record or with persons who the inmate knows to be engaged in illegal activities without staff's written permission;

(9) Drive a motor vehicle without staff's written permission, which can only be obtained if the inmate has proof of a currently valid driver's license and proof of appropriate insurance; or

(10) Return from furlough with anything the inmate did not take out with him/her (for example, clothing, jewelry, or books).

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0316]

RIN 1625-AA87

#### Security Zones; Sabine Bank Channel, Sabine Pass Channel and Sabine-Neches Waterway, TX

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing moving security zones for certain vessels for which the Captain of the Port, Port Arthur deems enhanced security measures necessary. In addition, it is establishing security zones encompassing the mooring basins of LNG carriers while they are moored at the Golden Pass LNG facility in Sabine, TX and/or the Sabine Pass LNG facility located in Cameron Parish, LA.

**DATES:** This rule is effective February 10, 2011.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0316 are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0316 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Mr. Scott Whalen, Marine Safety Unit Port Arthur, TX; telephone 409-719-5086, e-mail [scott.k.whelen@uscg.mil](mailto:scott.k.whelen@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager,

Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On May 27, 2010, we published a notice of proposed rulemaking (NPRM) entitled Security Zones; Sabine Bank Channel, Sabine Pass Channel and Sabine-Neches Waterway, TX in the **Federal Register** (75 FR 29695). We received one comment on the proposed rule. On October 22, 2010, we then published an interim rule discussing and incorporating the recommendation from that one comment and requesting further comments (75 FR 65232).

No public meeting was requested and none was held. Additionally, no comments concerning the interim rule were received.

##### Basis and Purpose

The Coast Guard is establishing moving security zones for certain vessels, for which the Captain of the Port deems enhanced security measures are necessary. The purpose of these security zones is to protect certain vessels designated as requiring such enhanced security measures. Mariners will be notified of the activation of a moving security zone around designated vessels by Broadcast Notice to Mariners. Vessels with active moving security zones will also be identified by the presence of escort vessels displaying flashing blue law enforcement lights.

The moving security zones would be activated for certain vessels within the U.S. territorial waters through Sabine Bank Channel, Sabine Pass Channel and the Sabine-Neches Waterway, extending from the surface to the bottom. These moving security zones would extend channel edge to channel edge on the Sabine Bank and Sabine Pass Channel and shoreline to shoreline on the Sabine-Neches Waterway, 2 miles ahead and 1 mile astern of the designated vessels while in transit. Meeting, crossing or overtaking situations are not permitted within the security zone unless specifically authorized by the Captain of the Port.

In addition, the Coast Guard is establishing security zones for the mooring basins at the Golden Pass LNG facility in Sabine, TX and the Sabine Pass LNG facility located in Cameron Parish, LA while LNG carriers are moored at these facilities.

These security zones are part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities against sabotage or terrorist attacks.

All vessels not exempted under paragraph (b) of § 165.819 would be

prohibited from entering or remaining in these security zones unless authorized by the Captain of the Port, Port Arthur or his designated representative. For authorization to enter the proposed security zones, vessels can contact the Captain of the Port's on-scene representative or Vessel Traffic Service Port Arthur on VHF Channel 01A or 65A, by telephone at (409) 719-5070, or by facsimile at (409) 719-5090.

### Background

On May 27, 2010 we published a notice of proposed rulemaking (NPRM) to establish this security zone regulation. We received one comment on the proposed rule. Based on that comment, the security zone area proposed in the NPRM was extended to include the entire mooring basins for LNG carriers. The Coast Guard concurs with that recommendation and modified the regulatory language accordingly for the interim rule. Additionally, the same commenter noted that the location of the Sabine Pass facility should be changed from Cheneire, LA to Cameron Parish, LA. This change was also incorporated into the interim rule regulatory language.

### Discussion of Comments and Changes

The Coast Guard received no comments concerning the interim rule requesting that the establishment of a security zone extending 100-feet around LNG carriers while moored at Sabine Pass LNG and Golden Pass LNG facilities be extended to include the entire mooring basin. For clarity, the Coast Guard has amended the final rule regulatory text to include "mooring basin" as a body of water description for the fixed security zones. Mooring basin as a descriptive term is in addition to the latitude and longitude positions, which are already part of the regulatory text, and does not change the areas included in the fixed security zone. This final rule contains no substantive changes from the interim rule as published.

### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### *Regulatory Planning and Review*

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The basis of this finding is that the proposed fixed security zones around moored LNG carriers are of limited size and duration and the affected area does not hinder or delay regular vessel traffic. The moving security zone is limited and does not create undue delay to vessel traffic because vessel traffic may request permission to enter the zone from the Captain of the Port.

#### *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 might be small entities: The owners or operators of vessels intending to transit through the fixed or moving security zones. The fixed security zones are of limited size and duration and the affected area will not hinder or delay regular vessel traffic. The moving security zone rule will not create undue delay to vessel traffic because vessel traffic may request permission to enter the zone.

#### *Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *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 (adjusted for inflation) 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 cause 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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves regulations establishing,

disestablishing, or changing Regulated Navigation Areas and security or safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR 165

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

For the reasons discussed in the preamble, the Coast Guard adopts the interim rule amending 33 CFR part 165 that was published at 75 FR 65235 on October 22, 2010, as a final rule with the following changes:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation to part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

#### § 165.819 [Amended]

- 2. In § 165.819—
  - a. Amend paragraph (a)(1)(i) by inserting the words “mooring basin” immediately before the word “waters”, and
  - b. Amend paragraph (a)(1)(ii) by inserting the words “mooring basin” immediately before the word “waters”.

Dated: November 22, 2010.

**J.J. Plunkett,**

*Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.*

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0423]

RIN 1625-AA87

#### Security Zone: Fleet Industrial Supply Center Pier, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing a security zone on the navigable waters of San Diego Bay, San Diego, CA. The existing zone is around the former Fleet Industrial Supply Center Pier. The pier

is no longer owned by the U.S. Navy and the existing security zone is no longer necessary to provide for the security of the U.S. Naval vessels, their crews, and the public from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature.

**DATES:** This rule is effective February 10, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0423 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0423 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Commander Mike Dolan, Waterways Management, U.S. Coast Guard Sector San Diego; telephone 619-278-7261, e-mail [Michael.b.dolan@uscg.mil](mailto:Michael.b.dolan@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM). It is unnecessary to seek comments on this rulemaking because the purpose of this security zone—to provide for the security of the U.S. Naval vessels, their crews, and the public from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature—no longer exists because the Navy no longer owns this facility.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective 30 days after publication in the **Federal Register**. The pier is no longer owned by the U.S.