

bridges normally do not receive any requests to open.

### 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 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 an expenditure, we do 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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 (32)(e), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. In § 117.789, from 8 a.m. through 12 p.m. on May 4, 2003, paragraph (c) is temporarily suspended and a new temporary paragraph (g) is added to read as follows:

#### § 117.789 Harlem River.

\* \* \* \* \*

(g) The draws of the bridges at 103 Street, mile 0.0, Willis Avenue, mile 1.5, 145 Street, mile 2.8, Macombs Dam, mile 3.2, 207 Street, mile 6.0, and the

two Broadway Bridges, mile 6.8, shall open on signal from 10 a.m. to 5 p.m. if at least four-hours notice is given to the New York City Highway Radio (Hotline) Room. The Third Avenue Bridge, mile 1.9, and the Madison Avenue Bridge, mile 2.3, need not open for vessel traffic from 8 a.m. to 12 p.m. on Sunday, May 4, 2003.

■ 3. In § 117.801, from 9:30 a.m. through 11:30 a.m. on May 4, 2003, paragraph (g) is suspended and a new paragraph (h) is added to read as follows:

#### § 117.801 Newtown Creek, Dutch Kills, English Kills, and their tributaries.

\* \* \* \* \*

(h) The draw of the of the Greenpoint Avenue Bridge, mile 1.3, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation Radio (Hotline) Room. The Pulaski Bridge, mile 0.6, need not open for vessel traffic from 9:30 a.m. to 11:30 a.m. on May 4, 2003.

Dated: April 25, 2003.

**Vivien S. Crea,**

*Rear Admiral, Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 03–11035 Filed 5–2–03; 8:45 am]

BILLING CODE 4910–15–U

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Houston–Galveston–02–009]

RIN 1625–AA00 [Formerly RIN 2115–AA97]

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing 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 of persons and vessels into these zones is prohibited except as authorized by this rule or by the Captain of the Port Houston-Galveston.

**DATES:** This rule is effective April 15, 2003.

**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 [COTP Houston-Galveston–02–

009] and are available for inspection or copying at Marine Safety Office Houston-Galveston, 9640 Clinton Drive, Galena Park, TX, 77547, 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, Port Waterways Management, at (713) 671-5100.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On June 11, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Security Zones; Captain of the Port Houston and Galveston Zone" [COTP Houston-Galveston-02-009] (67 FR 39919). The comment period for the NPRM expired on August 12, 2002. We received only two comments on this rule and both comments requested information on how to comment on the proposed rule. On December 10, 2002, as a result of those comments and to reflect changes in the size of the security zones proposed, we published a supplemental notice of proposed rulemaking (SNPRM) entitled "Security Zones; Captain of the Port Houston-Galveston Zone" [COTP Houston-Galveston-02-009] (67 FR 75831). Prior to the SNPRM being published we received one additional comment. That comment is treated as if it was submitted in response to the SNPRM. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. National security and intelligence officials continue to warn that future terrorist attacks against United States interests are likely. The temporary final rule published in the **Federal Register** on May 1, 2002 (67 FR 21578) as amended on June 11, 2002 (67 FR 39848) and extended on November 5, 2002 (67 FR 67301) expires on April 15, 2003. This rule replaces the original temporary final rule. Any delay in making this rule effective would be contrary to the public interest because action is necessary to protect against the possible loss of life, injury, or damage to property.

**Background and Purpose**

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. The President has continued the national emergencies he declared following those attacks (67 FR 58317 (Sep. 13, 2002) (continuing the

emergency declared with respect to terrorist attacks); 67 FR 59447 (Sep. 20, 2002) (continuing emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Act of June 15, 1917, as amended August 9, 1950, by the Magnuson Act (50 U.S.C. 191, *et seq.*), that the security of the United States is and continues to be endangered following the terrorist attacks (E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security of U.S. endangered by disturbances in its international relations and such disturbances continue to endanger such relations)).

In response to those terrorist acts, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary. The Captain of Port Houston-Galveston established temporary security zones around highly industrial areas within the Captain of the Port Houston-Galveston Zone. These zones were published on June 11, 2002 [COTP Houston-Galveston-02-011] (67 FR 39851) and November 5, 2002 [COTP Houston-Galveston-02-018] (67 FR 67301).

On June 11, 2002, we published an NPRM entitled "Security Zones; Captain of the Port Houston-Galveston Zone" [COTP Houston-Galveston-02-009] (67 FR 39919). The comment period for the NPRM expired on August 12, 2002. We received only two comments on this rule and both comments requested information on how to comment on the proposed rule. On 10 December, 2002, as a result of those comments and to reflect changes in the size of the security zones proposed, we published a supplemental notice of proposed rulemaking (SNPRM) entitled "Security Zones; Captain of the Port Houston-Galveston Zone" [COTP Houston-Galveston-02-009] (67 FR 75831).

**Discussion of Comments and Changes**

We received a total of three comments on the proposed rule. Two comments requested information on how to comment on the proposed rule. No follow-up comments were received for either. The third comment was in support of the proposed rule. No comment suggested that any changes should be made to the proposed rule. Therefore, we have made no changes to the provisions of the proposed rule.

**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 Homeland Security (DHS).

The impacts on routine navigation are expected to be minimal. Due to the highly industrialized nature of the areas in the vicinity of the zones, they are of limited interest to recreational boaters. Vessels engaged in commerce, assisting facilities located within a zone, or having the express permission of the Captain of the Port Houston-Galveston are authorized entry into a zone 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. 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 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, 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 this 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 an 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. 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are 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 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, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 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°41'00" N, 94°59'00" W (LLNR-23375) (NAD 1983).

(3) Bayport, TX. The Port of Bayport, Bayport Ship Channel and Bayport Turning Basin containing all waters south of latitude 28°36'45" N and west of Bayport Ship Channel Light 9 (LLNR-23295) (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 from Texas City Channel Light 19 (LLNR 24810) through Cut B Inner Range Front Light (LLNR 24765) and terminating on land in position 29°23'16" N, 94°53'15" W (NAD 1983).

(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) *Effective dates.* This section is effective on April 15, 2003.

(c) *Regulations.* (1) Entry of 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 designated representative.

(3) To request permission as required by these regulations contact "Houston Traffic" via VHF Channels 11/12 or by 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: March 28, 2003.

**Kevin S. Cook,**

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

[FR Doc. 03-10944 Filed 5-2-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Mobile-03-009]

RIN 1625-AA00

#### Security Zone; Bayou Casotte, Pascagoula, MS

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing all waters of Bayou Casotte east of a line drawn from position 30°19'09"N, 88°30'63"W to position 30°20'42"N, 88°30'51"W at the Chevron Pascagoula Refinery. This security zone is necessary to protect Chevron Pascagoula refinery, persons, and vessels from subversive or terrorist acts. Entry of persons or vessels into this security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

**DATES:** This rule is effective from 8 a.m. on March 22, 2003, until 5 p.m. on September 22, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket (COTP Mobile-03-009) and are available for inspection or copying at Marine Safety Office Mobile, Brookley Complex, Bldg 102, South Broad Street, Mobile, AL 36615-1390 between 8 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant (LT) Carolyn Beatty, Operations Department, Marine Safety Office Mobile, AL, at (251) 441-5771.

#### 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 an 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**.

National security and intelligence officials warn that future terrorist attacks against United States interests are likely. Current advisories of terrorist threats and the nature of the material handled at Chevron Pascagoula refinery make this rulemaking necessary for the protection of national security interests. Any delay in making this regulation effective would be contrary to the public interest because 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 rule, complete notice and comment rulemaking for a proposed permanent regulation.

##### Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. The President has continued the national emergencies he declared following those attacks (67 FR 58317 (Sep. 13, 2002) (continuing the emergency declared with respect to terrorist attacks); 67 FR 59447 (Sep. 20, 2002) (continuing emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Act of June 15, 1917, as amended August 9, 1950, by the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the terrorist attacks E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security of U.S. endangered by disturbances in international relations of U.S and such disturbances continue to endanger such relations). In response to these terrorist acts and warnings, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary. The Captain of the Port Mobile is establishing a temporary security zone encompassing all waters

of Bayou Casotte east of a line drawn from position 30°19'09"N, 88°30'63"W to position 30°20'42"N 88°30'51"W at the Chevron Pascagoula Refinery. These coordinates are based upon (NAD 83). This security zone is necessary to protect the Chevron Pascagoula refinery, persons, and vessels from subversive or terrorist acts. Entry of persons or vessels into this security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

##### 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 Homeland Security (DHS).

This rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. Vessels may be permitted to enter the security zone on a case-by-case basis.

##### 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. The Coast Guard is unaware of any small entities that would be impacted by this rule. The navigable channel remains open to all vessel traffic.

If you are a small business entity and are significantly affected by this regulation please contact LT Carolyn Beatty, Operations Department, Marine Safety Office, Mobile, AL, at (251) 441-5771.

##### 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 they could better evaluate its effects on them and