

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 relationships 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 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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. A new section 165.T07–101 is added to read as follows:

§ 165.T07–101 Security Zone; HOVENSA Refinery, St. Croix, U.S. Virgin Islands.

(a) *Regulated area.* All waters three miles seaward of the HOVENSA facility waterfront outlined by the following coordinates: 64°45'09" West, 17°41'32" North, 64°43'36" West, 17°38'30" North, 64°43'36" West, 17°38'30" North and 64°43'06" West, 17°38'42" North.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, with the exception of vessels with scheduled arrivals to the HOVENSA Facility, no vessel may enter

the regulated area unless specifically authorized by the Captain of the Port San Juan or a Coast Guard commissioned, warrant, or petty officer designated by him, or the HOVENSA Facility Port Captain. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (156.8 Mhz). The Captain of the Port San Juan can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz) or by calling (787) 289–2040, 24 hours a day, seven days a week. The HOVENSA Facility Port Captain can be reached on VHF Marine Band Radio channel 11 (156.6 Mhz) or by calling (340) 692–3488, 24 hours a day, seven days a week.

(c) *Effective period.* This section is effective from 6 p.m. on March 18, 2003 until 11:59 p.m. on June 15, 2003.

Dated: March 18, 2003.

William J. Uberti,

Captain, U.S. Coast Guard, Captain of the Port, San Juan.

[FR Doc. 03–10293 Filed 4–25–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Southeast Alaska–03–001]

RIN 1625–AA00

Security Zone: Protection of Alaska Marine Highway System (AMHS) Vessels M/V Columbia, M/V Kennicott, M/V Malaspina, and M/V Matanuska, in Southeast Alaska Waters

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: Increases in the Coast Guard's maritime security posture necessitate establishing temporary regulations for the security of AMHS vessels in the navigable waters of Southeast Alaska. This security zone will provide for the regulation of vessel traffic in the vicinity of AMHS vessels in the navigable waters of Southeast Alaska.

DATES: This temporary rule is effective March 19, 2003, until September 19, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP Southeast Alaska–03–001 and are available for inspection or copying at Marine Safety Office Juneau, 2760

Sherwood Lane, Suite 2A, Juneau, Alaska 99801, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Darwin A. Jensen, Marine Safety Office Juneau, 2760 Sherwood Lane, Suite 2A, Juneau, Alaska 99801, (907) 463–2450.

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) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to safeguard AMHS vessels from sabotage, other subversive acts, or accidents. If normal notice and comment procedures were followed, this rule would not become effective soon enough to provide immediate protection to AMHS vessels from the threats posed by hostile entities and would compromise the vital national interest in protecting maritime transportation and commerce. The security zone in this regulation has been carefully designed to minimally impact the public while providing a reasonable level of protection for AMHS vessels. For these reasons, following normal rulemaking procedures in this case would be impracticable, unnecessary, and contrary to the public interest.

Background and Purpose

The Coast Guard, through this action, intends to assist AMHS vessels by establishing a security zone to exclude persons and vessels from the immediate vicinity. Recent events highlight the fact that there are hostile entities operating with the intent to harm U.S. National Security. The President has continued the national emergencies he declared following the September 11, 2001, terrorist attacks (67 FR 58317 (Sept. 13, 2002) (Continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sept. 20, 2002) (Continuing national 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 attacks (E.O. 13,273, 67 FR 56215 (Sept. 3, 2002) (Security

endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations)).

Entry into this zone will be prohibited unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other Federal, State, or local agencies.

Discussion of Rule

This rule controls vessel movement in a regulated area surrounding AMHS high capacity passenger vessels that are in service. For the purpose of this regulation, AMHS high capacity passenger vessels are M/V Columbia, M/V Kennicott, M/V Malaspina and M/V Matanuska ("AHMS vessels"). All vessels authorized to be within 100 yards of these AMHS vessels shall operate at the minimum speed necessary to maintain a safe course, and shall proceed as directed by the on-scene official patrol or AMHS vessel master. No vessel, except a public vessel (defined below), is allowed within 100 yards of the AHMS vessels, unless authorized by the on-scene official patrol or AMHS vessel master. Vessels requesting to pass within 100 yards of these vessels shall contact the official patrol or AMHS vessel master on VHF-FM channel 16 or 13. The on-scene official patrol or AMHS vessel master may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of the subject AMHS vessels in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of a passing AMHS vessel. Public vessels for the purpose of this Temporary Final Rule are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) Individual AMHS vessel security zones are limited in size; (ii) the on-scene official patrol or AMHS vessel master may authorize access to the AMHS vessel security zone; (iii) the AMHS vessel security zone for any given transiting AMHS vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of AMHS vessels in the navigable waters of the United States.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual AMHS vessel security zones are limited in size; (ii) the on-scene official patrol or AMHS vessel master may authorize access to the AMHS vessel security zone; (iii) the AMHS vessel security zone for any given transiting AMHS vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

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 rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact one of the

points of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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

The Coast Guard is committed to working with tribal governments to implement local policies to mitigate tribal concerns. Given the flexibility of the Temporary Final Rule to accommodate the special needs of mariners in the vicinity of AMHS vessels and the Coast Guard's commitment to working with the tribes, we have determined that AMHS vessel security and fishing rights protection need not be incompatible. Therefore, we have determined that this Temporary Final 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 analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 draft "Environmental Analysis Check List" and a "Categorical Exclusion Determination" (CED) are

available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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. From March 19, 2003, until September 19, 2003, temporary § 165.T17–014 is added to read as follows:

§ 165.T17–014 Security Zone Regulations, Alaska Marine Highway System High Capacity Passenger Vessel Security Zone, Southeast Alaska, Captain of the Port Zone.

(a) The following definitions apply to this section:

(1) *Alaska Law Enforcement Officer* means any General Authority Alaska Peace Officer, Limited Authority Alaska Peace Officer, or Specially Commissioned Alaska Peace Officer, as defined by Alaska State laws.

(2) *Alaska Marine Highway System high capacity passenger vessel* ("AMHS vessel") includes the following vessels: M/V Columbia, M/V Kennicott, M/V Malaspina and M/V Matanuska.

(3) *AMHS vessel security zone* is a regulated area of water, established by this section, surrounding an AMHS vessel for a 100-yard radius that is necessary to provide for the security of these vessels.

(4) *Federal Law Enforcement Officer* means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(5) *Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.05–25.

(6) *Navigation Rules* means the Navigation Rules, International-Inland.

(7) *Official Patrol* means those persons designated by the Captain of the Port to monitor an AMHS vessel security zone, permit entry into the zone, give legally enforceable orders to

persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized to enforce this section are designated as the Official Patrol.

(8) *Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(b) *Location*. The following is the Alaska Marine Highway System high capacity passenger vessel ("AMHS vessel") security zone: All water and land areas within a 100-yard radius of an AMHS vessel when that vessel is located within the navigable waters of the United States, starting at 60 01.3' N. latitude, 142 00' W. longitude; thence northeasterly to the Canadian border at 60 18.7' N. latitude, 141 00' W. longitude; thence southerly and easterly along the United States-Canadian shoreside boundary to 54 40' N. latitude; thence westerly along the United States-Canadian maritime boundary to the outermost extent of the United States Exclusive Economic Zone (EEZ); thence northerly along the outer boundary of the EEZ to 142 00' W longitude; thence due north to the point of origin. [Datum: NAD 1983]

(c) An AMHS vessel security zone exists around the subject AMHS vessels at all times, whether the AMHS vessel is underway, anchored, or moored.

(d) The Navigation Rules shall apply at all times within an AMHS vessel security zone.

(e) All vessels authorized to be within an AMHS vessel security zone shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the on-scene official patrol or AMHS vessel master. No vessel or person is allowed within 100 yards of an AMHS vessel, unless authorized by the on-scene official patrol or AMHS vessel master.

(f) To request authorization to operate within an AMHS vessel security zone, contact the on-scene official patrol or AMHS vessel master on VHF-FM channel 16 or 13.

(g) When conditions permit, the on-scene official patrol or AMHS vessel master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of an AMHS vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of a passing AMHS vessel; and

(3) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or

anchored AMHS vessel with minimal delay consistent with security.

(h) Exemption. Public vessels as defined in paragraph (a) above are exempt from complying with paragraphs (b), (c), (e), (f), (g), (i), and (j), of this section.

(i) Enforcement. Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. When immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effective control in the vicinity of an AMHS vessel, any Federal Law Enforcement Officer or Alaska State Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR § 6.04–11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section.

(j) Waiver. The Captain of the Port Southeast Alaska may waive any of the requirements of this section for any vessel upon finding that a vessel or class of vessels, operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: March 18, 2003.

S. J. Ohnstad,

Commander, Coast Guard, Captain of the Port, Southeast Alaska.

[FR Doc. 03–10292 Filed 4–25–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2003–15023]

Safety Zones, Security Zones and Regulated Navigation Areas

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules

issued by the Coast Guard and temporarily effective between October 1, 2002, and December 31, 2002, that were not published in the **Federal Register**. This quarterly notice lists temporary security zones, safety zones and regulated navigation areas of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This notice lists temporary Coast Guard rules that became effective and were terminated between October 1, 2002, and December 31, 2002.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this notice on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact LT Sean Fahey, Office of Regulations and Administrative Law, telephone (202) 267–2830. For questions on viewing, or on submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation at (202) 366–5149.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to prevent injury or damage to vessels, ports, or waterfront facilities. Regulated navigation areas are fixed locations where the movement of vessels inside is limited for environmental, safety or security

purposes. Timely publication of these rules in the **Federal Register** is often precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these security zones, safety zones or regulated navigation areas by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary security zones, safety zones and regulated navigation areas. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones, security zones and regulated navigation areas listed in this notice have been exempted from review under Executive Order 12866, Regulatory Planning and Review, because of their emergency nature, or limited scope and temporary effectiveness.

■ The following rules were placed in effect temporarily during the period from October 1, 2002, through December 31, 2002, unless otherwise indicated. This notice also includes rules that were not received in time to be included on the quarterly notice for the third quarter of 2002.

Dated: April 22, 2003.

S.G. Venckus,

Chief, Office of Regulations and Administrative Law.

COTP QUARTERLY REPORT—4TH QUARTER 2002

| COTP docket | Location | Type | Effective date |
|-----------------------------|--|---------------------|----------------|
| CHARLESTON 02–142 | COOPER RIVER, PORT OF CHARLESTON, SC | SAFETY ZONE | 11/15/2002 |
| HOUSTON-GALVESTON 02–019 .. | SAN JACINTO RIVER, HOUSTON, TX | SAFETY ZONE | 10/29/2002 |
| HOUSTON-GALVESTON 02–020 .. | SAN JACINTO RIVER, HOUSTON, TX | SAFETY ZONE | 11/04/2002 |
| HOUSTON-GALVESTON 02–021 .. | SAN JACINTO RIVER, HOUSTON, TX | SAFETY ZONE | 11/05/2002 |
| HOUSTON-GALVESTON 02–022 .. | SAN JACINTO RIVER, HOUSTON, TX | SAFETY ZONE | 11/06/2002 |
| HOUSTON-GALVESTON 02–023 .. | SAN JACINTO RIVER, HOUSTON, TX | SAFETY ZONE | 11/09/2002 |
| HUNTINGTON 02–010 | ELK RIVER, M. 0 TO 2 | SECURITY ZONE | 10/31/2002 |
| JACKSONVILLE 02–129 | ST. JOHNS RIVER, JACKSONVILLE, FL | SAFETY ZONE | 10/31/2002 |