

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, vessels will not be allowed to enter the safety zone without the express permission of the Captain of the Port Chicago or the designated on-scene representative. It is anticipated that controlled passage of vessels will be possible on a case-by-case basis.

(2) Barges transiting the area will be limited to dry cargo, 35 foot wide with drafts not exceeding 9-feet. Up bound tows are limited to one barge. Down bound tows are limited to one loaded barge or two empty barges. All down bound tows require a bow assist boat.

(3) All commercial and recreational vessels must contact the Coast Guard Forward Command Post via VHF-FM Channel 19 or land line at 630-336-0291 to request permission to transit through the safety zone.

(c) *Effective Date.* This regulation is effective from 5 pm on April 05, 2005, through 5 pm on May 31, 2005, unless cancelled sooner by the Captain of the Port Chicago by Broadcast Notice to Mariners.

Dated: April 5, 2005.

**T.W. Carter,**

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

[FR Doc. 05-8071 Filed 4-21-05; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Mobile-04-057]

RIN 1625-AA87

#### Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent security zones around all cruise ships while transiting or moored in the Port of Mobile and Mobile Ship Channel shoreward of the Mobile Sea Buoy. These security zones are needed to ensure the safety and security of these vessels. Entry into these zones is prohibited unless specifically authorized by the Captain of the Port Mobile or a designated representative.

**DATES:** This rule is effective at 6 p.m. on May 23, 2005.

**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 Mobile 04-057) 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) Maurice York, Operations Department, Marine Safety Office Mobile, at (251) 441-5940.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On January 7, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL" in the *Federal Register* (70 FR 1400). We received no comments on the proposed rule. No public hearing was requested, and none was held.

##### 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 (69 FR 55313 (Sep. 13, 2004) (continuing the emergency declared with respect to terrorist attacks); 69 FR 56923 (Sep. 22, 2004) (continuing emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including 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.

On November 12, 2004, the Coast Guard published a temporary final rule entitled "Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL" (69 FR 65373). This temporary final rule established temporary security zones around cruise ships when transiting the Mobile Ship Channel and Port of Mobile, as well as when moored in the Port of Mobile. This temporary final rule will expire at 6 p.m. on April 14, 2005. However, due to the increased security concerns surrounding the transit of cruise ships, the Captain of the Port Mobile is establishing permanent security zones around all cruise ships

while such vessels are transiting the Mobile Ship Channel or Port of Mobile, and while moored in the Port of Mobile.

##### Discussion of Comments and Changes

We received no comments on the proposed rule, and no changes have been made from 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).

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

These security zones will only be enforced while cruise ships are located shoreward of the Mobile Sea Buoy, are transiting the Mobile Ship Channel, and are moored in the Port of Mobile. Once a cruise ship is moored in the Port of Mobile, the security zone will be reduced to 25 yards. While the cruise ship is moored, other vessels will be able to safely transit around this zone provided they approach no closer than 25 yards. Additionally, while a cruise ship is in transit on the Mobile Ship Channel or in the Port of Mobile, the Captain of the Port or a designated representative may allow other persons or vessels to enter into the security zone for the purpose of passing or overtaking a cruise ship if such persons or vessels obtain permission from the on-scene Coast Guard representative prior to initiating such action.

Notifications of the enforcement periods of this security zone will be made to the marine community through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

##### 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 may be small entities: the owners or operators of vessels intending to transit the waters of the Port of Mobile or the Mobile Ship Channel while cruise ships are shoreward of Mobile Sea Buoy.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) This rule will only be enforced while cruise ships are shoreward of the Mobile Sea Buoy; (2) Once a cruise ship is moored in the Port of Mobile, the security zone will be reduced to 25 yards and other vessels will be able to safely transit around this zone provided they approach no closer than 25 yards; (3) The Captain of the Port Mobile may permit vessels to transit through the security zone for the purpose of passing or overtaking a transiting cruise ship if permission is sought and obtained from the on-scene Coast Guard representative prior to initiating such action.

If you are a small business entity and are significantly affected by this regulation please contact LT Maurice York, Operations Department, Marine Safety Office Mobile, at (251) 441-5940.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). 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 or more in any one year. Though this rule would not result in such 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 would not create an environmental risk to health or risk to safety that might 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 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.

#### **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 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 because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA).

A final "Environmental Analysis Checklist" 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 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.835 to read as follows:

### **§ 165.835 Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL.**

(a) *Definition.* As used in this section—

*Cruise Ship* means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

(b) *Location.* The following areas are security zones: all waters of the Port of Mobile and Mobile Ship Channel—

(1) Within 100 yards of a cruise ship that is transiting shoreward of the Mobile Sea Buoy (located in approximate position 28°07'50" N, 88°04'12" W; NAD 83), and

(2) Within 25 yards of a cruise ship that is moored shoreward of the Mobile Sea Buoy.

(c) *Periods of enforcement.* This rule will only be enforced when a cruise ship is transiting the Mobile Ship Channel shoreward of the Mobile Sea Buoy, while transiting in the Port of Mobile, or while moored in the Port of Mobile. The Captain of the Port Mobile or a designated representative would inform the public through broadcast notice to mariners of the enforcement periods for the security zone.

(d) *Regulations.* (1) Under § 165.33 of this part, entry into a security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) While a cruise ship is transiting on the Mobile Ship Channel shoreward of the Mobile Sea Buoy, and while transiting in the Port of Mobile, all persons and vessels are prohibited from entering within 100 yards of a cruise ship.

(3) While a cruise ship is moored in the Port of Mobile, all persons and

vessels are prohibited from entering within 25 yards of a cruise ship.

(4) Persons or vessels that desire to enter into the security zone for the purpose of passing or overtaking a cruise ship that is in transit on the Mobile Ship Channel or in the Port of Mobile must contact the on-scene Coast Guard representative, request permission to conduct such action, and receive authorization from the on-scene Coast Guard representative prior to initiating such action. The on-scene Coast Guard representative may be contacted on VHF–FM channel 16.

(5) All persons and vessels authorized to enter into this security zone must obey any direction or order of the Captain of the Port or designated representative. The Captain of the Port Mobile may be contacted by telephone at (251) 441–5976. The on-scene Coast Guard representative may be contacted on VHF–FM channel 16.

(6) All persons and vessels shall comply with the instructions of the Captain of the Port Mobile and designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: March 15, 2005.

**Steven D. Hardy,**

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

[FR Doc. 05–8072 Filed 4–21–05; 8:45 am]

**BILLING CODE 4910–15–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

**[COTP Mobile–05–007]**

**RIN 1625–AA87**

### **Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary security zones around all cruise ships while transiting or moored in the Port of Mobile and Mobile Ship Channel shoreward of the Mobile Sea Buoy. These security zones are needed to ensure the safety and security of these vessels. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port Mobile, or a designated representative.

**DATES:** This rule is effective from 6 p.m. on April 14, 2005, through May 23, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP Mobile–05–007] 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) Maurice York, Operations Department, Marine Safety Office Mobile, at (251) 441–5940.

### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

On November 12, 2004, the Coast Guard published a temporary final rule (TFR) entitled “Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL” (69 FR 65373). This temporary final rule will expire at 6 p.m. on April 14, 2005. On January 7, 2005, we published a notice of proposed rulemaking (NPRM) entitled “Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL” (70 FR 1400). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. That final rule is being published elsewhere in this same issue of the **Federal Register** and will become effective on May 23, 2005.

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. It took longer to resolve issues related to the final rule than we expected at the time we issued the last TFR. Because the current TFR expires at 6 p.m. on April 14, 2005, this new TFR is necessary because it would be contrary to public interest not to maintain a security zone around transiting cruise ships in the Mobile Ship Channel or Port of Mobile until the final rule becomes effective on May 23, 2005, at which time this temporary rule will be removed.

#### **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 (69 FR 55313 (Sep. 13, 2004) (continuing the emergency declared with respect to terrorist attacks); 69 FR 56923 (Sep. 22, 2004) (continuing emergency with