

it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

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

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add § 165.825 to read as follows:

##### § 165.825 Security Zones; Captain of the Port St. Louis, Missouri.

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

(1) *Fort Calhoun Nuclear Power Station Security Zone, Fort Calhoun, Nebraska*—all waters of the Missouri River, extending 75 feet from the shoreline of the right descending bank beginning at mile marker 645.6 and ending at mile marker 646.0.

(2) *Cooper Nuclear Station Security Zone, Brownville, Nebraska*—all waters of the Missouri River, extending 250 feet from the shoreline of the right descending bank beginning at mile marker 532.5 and ending at mile marker 532.9.

(3) *Quad Cities Generating Station Security Zone, Cordova, Illinois*—all waters of the Upper Mississippi River, extending 300 feet from the shoreline of

the left descending bank beginning at mile marker 506.3 and ending at mile marker 507.3.

(4) *Prairie Island Nuclear Generating Facility Security Zone, Welch, Minnesota*—all waters of the Upper Mississippi River, extending 300 feet from the shoreline of the right descending bank beginning at mile marker 798.0 and ending at mile marker 798.3.

(5) *Clinton Power Station Security Zone, Clinton, Illinois*—all waters of Lake Clinton in Dewitt County in East Central Illinois bounded by a dam constructed near the confluence of Salt Creek River mile 56 and the north fork of Salt Creek. The zone extends out 600 feet from shore. Boundaries of the zone will begin at 40°10'30" N, 88°50'30" W; thence east to 40°10'30" N, 88°49'55" W; thence south to 40°10'15" N, 88°49'55" W; thence west to 40°10'15" N, 88°50'30" W; thence returning north to the origin. These coordinates are based upon [NAD 83].

(b) *Regulations.* (1) Entry into these security zones is prohibited unless authorized by the Coast Guard Captain of the Port, St. Louis or his designated representative.

(2) The Fort Calhoun and Cooper security zones include a portion of the navigable channel of the Missouri River. All vessels that may safely navigate outside of the channel are prohibited from entering the security zone without the express permission of the Captain of the Port St. Louis or his designated representative. Vessels that are required to use the channel for safe navigation are authorized entry into the zone but must remain within the channel unless expressly authorized by the Captain of the Port St. Louis or his designated representative.

(3) Persons or vessels requiring entry into the security zones must contact the Captain of the Port, St. Louis at telephone number 314 539-3091, ext. 541 or Marine Safety Detachment Quad Cities at telephone number 309 782-0627 or Coast Guard Group Upper Mississippi River at telephone number 319 524-7511 or on VHF marine channel 16 in order to seek permission to enter the security zones. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, St. Louis or his designated representative.

(4) Designated representatives are commissioned, warrant, and petty officers of the U.S. Coast Guard.

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

Dated: May 29, 2002.

**E.A. Washburn,**

*Commander, U.S. Coast Guard, Captain of the Port, St. Louis.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP New Orleans-02-005]

RIN 2115-AA97

#### Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish permanent moving security zones around cruise ships entering and departing the Lower Mississippi River (LMR) from the Southwest Pass sea buoy to mile marker 96.0. These security zones are needed for the safety and security of these vessels. Entry into these zones would be prohibited to all persons and vessels unless authorized by the Captain of the Port, New Orleans or his designated representative.

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

**ADDRESSES:** You may mail comments and related material to Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA, 70112. Marine Safety Office New Orleans maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (LT) Ricardo Alonso, Marine Safety Office New Orleans, Port Waterways Management, at (504) 589-4222.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for

this rulemaking [COTP New Orleans–02–005], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

### Public Meeting

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

### Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. National security and intelligence officials have warned that future terrorist attacks against civilian targets may be anticipated. In response to these terrorist acts, heightened awareness and security of our port and harbors and the vessels that transit them is necessary. Due to the increased safety and security concerns surrounding the transit of cruise ships, the Captain of the Port, New Orleans established temporary moving security zones, [COTP New Orleans–02–004], around these vessels. These temporary moving security zones remain in effect until October 15, 2002. (See temporary final rule entitled “Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, Louisiana” published elsewhere in today’s issue of the **Federal Register**.)

Because the generalized high-level threat environment continues, the Captain of the Port New Orleans has determined that there is a need for these security zones to remain in effect indefinitely. The Captain of the Port New Orleans is proposing permanent regulations for security zones around these vessels as they transit between Southwest Pass and mile marker 96.0 LMR.

### Discussion of Proposed Rule

In our proposed rule, moving security zones would commence when a cruise ship passes the Southwest Pass Entrance Lighted Buoy “SW” inbound and

continues through its transit, mooring, and return transit until it passes the sea buoy outbound. No vessel would be permitted to operate within 500 yards of a cruise ship unless operating at the minimum safe speed required to maintain a safe course. Except as described in this rule, no person or vessel would be permitted to enter within 100 yards of a cruise ship unless expressly authorized by the Captain of the Port, New Orleans. Moored vessels or vessels anchored in a designated anchorage area would be permitted to remain within 100 yards of a cruise ship while it is in transit.

The establishment of moving security zones described in this rule would be announced to mariners via Marine Safety Information Broadcast.

For the purpose of this proposed rule the term “cruise ship” is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

### Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The impacts on routine navigation are expected to be minimal as the zones will only impact navigation for a short period of time and the size of the zones allows for the transit of most vessels with minimal delay.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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 Southwest Pass and the Lower Mississippi River, to mile marker 96.0. These security zones would not have a significant economic impact on a substantial number of small entities. The size of the security zones allow for vessels to safely transit around or through the zones with minimal interference.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Ricardo Alonso, Marine Safety Office New Orleans, Port Waterways Management, at (504) 589–4222.

### Collection of Information

This proposed 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 proposed rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions

that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

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

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of

Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

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

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add § 165.812 to read as follows:

#### § 165.812 Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, Louisiana.

(a) *Location.* Within the Lower Mississippi River and Southwest Pass, moving security zones are established around all cruise ships between the Southwest Pass Entrance Lighted Buoy "SW", at approximate position 28°52'42" N, 89°25'54" W [NAD 83] and Lower Mississippi River mile marker 96.0 in New Orleans, Louisiana. These temporary moving security zones encompass all waters within 500 yards of a cruise ship. These zones remain in effect during the entire transit of the vessel and continue while the cruise ship is moored or anchored.

(b) *Regulations.* (1) Entry of persons and vessels into these zones is prohibited unless authorized as follows.

(i) Vessels may enter within 500 yards but not closer than 100 yards of a cruise ship provided they operate at the minimum speed necessary to maintain a safe course.

(ii) No person or vessel may enter within 100 yards of a cruise ship unless

expressly authorized by the Coast Guard Captain of the Port New Orleans.

(iii) Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 yards of a cruise ship while it is in transit.

(2) Vessels requiring entry within 500 yards of a cruise ship that cannot slow to the minimum speed necessary to maintain a safe course must request express permission to proceed from the Captain of the Port New Orleans, or his designated representative.

(3) For the purpose of this section the term "cruise ship" is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

(4) The Captain of the Port New Orleans will inform the public of the moving security zones around cruise ships via Marine Safety Information Broadcasts.

(5) To request permission as required by these regulations contact "New Orleans Traffic" via VHF Channels 13/67 or via phone at (504) 589-2780 or (504) 589-6261.

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

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

Dated: May 29, 2002.

**R.W. Branch,**

*Captain, U.S. Coast Guard, Captain of the Port New Orleans.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA159-4189b; FRL-7211-6]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.