

CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Add temporary § 117.T824 to read as follows:

§ 117.T824 Cape Fear River.

From 7:30 a.m. to 11 a.m. on November 14, 2004, the Cape Fear River Memorial Bridge, mile 26.8 at Wilmington, may remain closed to navigation.

Dated: November 1, 2004.

Sally Brice-O'Hara,

*Rear Admiral, U. S. Coast Guard,
Commander, Fifth Coast Guard District.*

[FR Doc. 04–25207 Filed 11–10–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Mobile–04–034]

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 8 a.m. (c.s.t.) on October 14, 2004, until 6 p.m. (c.s.t.) on April 14, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Mobile–04–034] 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

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**. Publishing an NPRM and delaying its effective date would be contrary to public interest because immediate action is needed to protect cruise ships and passengers from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature while a cruise ship is transiting the Mobile Ship Channel or Port of Mobile, and while moored in the Port of Mobile.

This rule is temporary. But because of continued security concerns, the Coast Guard does intend to establish similar permanent security zones. A NPRM will be published in the **Federal Register** and will allow the public an opportunity to comment on that proposed rule.

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, 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 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. Due to the increased security concerns surrounding the transit of cruise ships, the Captain of the Port Mobile is establishing a temporary security zone 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 Rule

The Coast Guard is establishing temporary security zones for the Port of Mobile and Mobile Ship channel. This rule establishes security zones that prohibit movement within 25 yards of all cruise ships while moored in the Port of Mobile, and prohibits movement within 100 yards of any cruise ship while transiting the Mobile Ship Channel or the Port of Mobile. For the purpose of this 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.

These security zones will be enforced when a cruise ship transiting inbound passes the Mobile Sea Buoy in approximate position 28°07'50" N, 88°04'12" W, at all times during transit through the Mobile Ship Channel and Port of Mobile, and while moored in the Port of Mobile. A security zone will exist during each cruise ship's transit outbound the Port of Mobile and the Mobile Ship Channel. Enforcement of the security zone will cease once the cruise ship passes the Mobile Sea Buoy on its outbound voyage.

These security zones are needed to protect the safety of life, property and the environment in the area. All vessels are prohibited from moving within these zones unless specifically authorized by the Captain of the Port Mobile, or a designated representative.

Persons or vessels that desire to enter into one of these security zones 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. All persons and vessels authorized to enter into a security zone must obey any direction or order of the Captain of the Port or designated representative.

The Captain of the Port Mobile or a designated representative will inform the public through broadcast notice to mariners of the enforcement periods for these security zones.

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).

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 only 25 yards around the cruise ship. 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 these security zones 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 for the reasons enumerated under the Regulatory Evaluation section of this rule.

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 they may 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 this rule 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 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. 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 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” will be

available for inspection or copying 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. 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. A new § 165.T08–139 is added to read as follows:

§ 165.T08–139 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°4'12" W; NAD 83), and

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

(c) *Effective period.* This section is effective from 8 a.m. (CST) on October 14, 2004, until 6 p.m. (CST) on April 14, 2005.

(d) *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.

(e) *Regulations.* (1) In accordance with the general regulations in § 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 shall 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 U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: October 15, 2004.

Gary T. Croot,

Commander, U.S. Coast Guard, Captain of the Port Mobile, Acting.

[FR Doc. 04–25129 Filed 11–10–04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2004–IA–0005; FRL–7836–4]

Approval and Promulgation of State Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing a revision to the Iowa State implementation plan (SIP) establishing exemptions for equipment that is either used for nonproduction activities or exhausted inside a building, to establish an exemption for manually-operated equipment, and to establish exemptions

for emission units that can be classified as small units. The State has determined that air pollution emissions from this equipment are negligible and these exemptions are likely to result in no significant impact on human health or the environment.

DATES: This direct final rule will be effective January 11, 2005, without further notice, unless EPA receives adverse comment by December 13, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2004–IA–0005, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Agency Web site:* <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search;" then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail:* hamilton.heather@epa.gov.

4. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier:* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID No. R07–OAR–2004–IA–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.