

regulations implementing and enforcing its terms, 29 CFR Part 470, which required government contractors and subcontractors to post notices informing their employees of certain rights under federal law. These regulations also required federal contracting agencies and covered government contractors and subcontractors to include certain provisions of the Order in their contracts, subcontracts, and purchase orders.

Because Executive Order 13496 expressly revokes Executive Order 13201, the authority for the Secretary's implementing regulations at 29 CFR Part 470 no longer exists. As a result, the implementing regulations are now without force and effect, and the Secretary no longer enforces them. Consequently, this final rule rescinds these regulations.

The Secretary has determined that it need not publish the rescission of these regulations as a proposed rule, as generally required by the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b). Notice to the public and provision of a public comment period for this rule are unnecessary because Executive Order 13201, which authorized 29 CFR Part 470, has been revoked, and, therefore, no legal basis exists for these regulations. Furthermore, Section 13 of Executive Order 13496 provides that regulations implementing Executive Order 13201 shall be promptly revoked. Therefore, good cause exists for dispensing with the notice and comment requirements of the APA. 5 U.S.C. 553(b)(B). For the same reasons, good cause exists to make this rule effective immediately upon publication of this rule. 5 U.S.C. 553(d)(3).

## Regulatory Procedures

### *Executive Order 12866*

This final rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department has also determined that this rule is not "economically significant" as defined in section 3(f)(1) of Executive Order 12866. Therefore, the information enumerated in section 6(a)(3)(C) of the order is not required.

### *Regulatory Flexibility Act*

This rescission is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601(2) and 604(a)) because a general notice of proposed rulemaking

was not published nor an opportunity for notice and public comment provided in connection therewith. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. The Secretary has certified this conclusion to the Chief Counsel for Advocacy of the Small Business Administration.

### *Unfunded Mandates Reform*

Unfunded Mandates Reform Act of 1995—This rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of \$100 million or more, or in increased expenditures by the private sector of \$100 million or more.

### *Paperwork Reduction Act*

This rule contains no new information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

### **List of Subjects in 29 CFR Part 470**

Administrative practice and procedure, Government contracts, Union dues, Labor unions.

■ Accordingly, pursuant to Executive Order 13496 and for the reasons stated herein, the Secretary hereby amends Title 29 of the Code of Federal Regulations, Subchapter C, by removing Part 470 and reserving it for future use.

**Authority:** Executive Order 13496.

Signed in Washington, DC, this 24th day of March, 2009.

**Shelby Hallmark,**

*Acting Assistant Secretary for Employment Standards.*

**Andrew D. Auerbach,**

*Deputy Director, Office of Labor-Management Standards.*

[FR Doc. E9-6926 Filed 3-27-09; 8:45 am]

**BILLING CODE 4510-CP-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket No. USCG-2008-0070]

RIN 1625-AA87

### Security Zone; Port of Mayaguez, Puerto Rico

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with request comments.

**SUMMARY:** The Coast Guard is establishing 50 yard moving and fixed security zones around cruise ships entering, departing, mooring or anchoring at the Port of Mayaguez, Puerto Rico. This proposed regulation is necessary to protect cruise ships operating in this port. This interim rule excludes entry into the security zones by all vessels, with the exception of servicing pilot boats and assisting tug boats, without the express permission of the Captain of the Port San Juan or a designated representative.

**DATES:** This interim rule is effective April 29, 2009. Comments and related material must reach the Docket Management Facility on or before April 29, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG-2008-0070 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this interim rule, call Lieutenant Junior Grade Rachael Love of Sector San Juan, Prevention Operations Department at (787)-289-2071. If you have questions on viewing or submitting material to the docket, call

Renee V. Wright, Program Manager,  
Docket Operations, telephone 202-366-  
9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0070), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2008-0070" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the

Advanced Docket Search option on the right side of the screen, insert USCG-2008-0070 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the USCG Sector San Juan, Prevention Operations Department, 5 Calle La Puntilla, San Juan, PR 00901, between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before April 29, 2009 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

##### Regulatory Information

On September 23, 2008, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Port of Mayaguez, Puerto Rico in the **Federal Register** (73 FR 54757). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia, and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing operations in the Middle East have made it prudent for U.S. ports to be on a higher state of alert because the Al-Qaeda organization and other similar organizations have declared an

ongoing intention to conduct armed attacks on U.S. interests worldwide. Due to these concerns, security zones around passenger vessels are necessary to ensure the safety and protection of the passengers aboard. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. Moreover, the Coast Guard has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) (the "Magnuson Act"), and implementing the regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

The Coast Guard has established similar rules in the ports of San Juan, St. Thomas, and Frederiksted, St. Croix. This regulation was not necessary in the past because cruise ships only recently began to hail at the Port of Mayaguez.

For the aforementioned reasons, the Coast Guard is establishing moving and fixed security zones to prevent vessels or persons from accessing the navigable waters around and under passenger vessels in the Port of Mayaguez, Puerto Rico. Due to the continued heightened security concerns, this rule is necessary to provide for the safety of the port, the vessels, and the passengers and crew on the vessels.

##### Discussion of Comments and Changes

Although no comments were received on the NPRM, the COTP would like to receive comments on a proposed change to the regulated text before issuing a final rule. The purpose of this change would be to clarify which vessels are considered cruise ship vessels.

The pertinent sentence from the regulatory text in the NPRM reads as follows:

*Cruise ship* means a passenger vessel greater than 100 feet in length that is authorized to carry more than 150 passengers for hire, except for a ferry.

The replacement language proposed for the final rule would read as follows:

*Cruise ship* means any vessel over 100 gross register tons, carrying more than 12 passengers for hire.

The difference between the two versions is that in the final rule, instead of being defined by its length, a cruise ship would be defined by its gross tonnage and can carry more than 12

passengers instead of more than 150 passengers.

### Regulatory Analyses

We developed this interim rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This rule may have impact on the public, but these potential impacts will be minimized for the following reason: there is ample room for vessels to navigate around this proposed security zone. Also, the Captain of the Port San Juan may, on a case-by-case basis, allow persons or vessels to enter the proposed security zone.

### 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 would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit, anchor, or moor within 50 yards of a cruise ship in the Port of Mayaguez. This rule will not have a significant impact on a substantial number of small entities because cruise ships infrequently visit the Port of Mayaguez and small vessel traffic would be able to safely transit around the security zones.

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), in the NPRM 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 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.

### 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 Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. Paragraph (34)(g) covers regulations establishing, disestablishing, or changing security zones. This rule involves establishing a security zone in the Port of Mayaguez. An environmental analysis checklist and a 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add: § 165.778 to read as follows:

#### § 165.778 Security Zone; Port of Mayaguez, Puerto Rico.

(a) *Security zone.* A moving and fixed security zone is established around all cruise ships entering, departing, mooring, or anchoring in the Port of Mayaguez, Puerto Rico. The regulated area includes all waters from surface to bottom within a 50-yard radius of the vessel. The zone is activated when a cruise ship on approach to the Port of Mayaguez enters within 1 nautical mile of the Bahia de Mayaguez Range Front Light located in position 18°13'12" N

067°10'46" W. The zone is deactivated when a cruise ship departs the Port of Mayaguez and is no longer within 1 nautical mile of the Bahia de Mayaguez Range Front Light.

(b) *Definitions.* As used in this section:

*Cruise ship* means any vessel over 100 gross registered tons, carrying more than 12 passengers for hire.

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels and Federal, State, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the security zone.

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. Naval vessels and servicing pilot and tug boats.

(c) *Regulations.* (1) No person or vessel may enter into the security zone under this section unless authorized by the Captain of the Port San Juan.

(2) Vessels seeking to enter a security zone established in this section, may contact the COTP on VHF channel 16 or by telephone at (787) 289–2041 to request permission.

(3) All persons and vessels granted permission to enter the security zone must comply with the orders of the Captain of the Port San Juan 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.

(d) *Effective period.* This section is effective on April 29, 2009.

Dated: February 20, 2009.

**E. Pino,**

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

[FR Doc. E9–6976 Filed 3–27–09; 8:45 am]

**BILLING CODE 4910–15–P**

**ACTION:** Notice of Delay of Effective Date.

**SUMMARY:** The Department is delaying the effective date of this rule for an additional 60 days. The Department previously delayed the effective date and sought comment for 30 days ending on March 2, 2009 (74 FR 5107). More time is needed for the Forest Service to properly respond to the comments and to consider any potential changes to the rule. The rule regulates the sustainable free use, commercial harvest, and sale of special forest products and forest botanical products from National Forest System lands.

**DATES:** The effective date for the rule published at 73 FR 79367, December 29, 2008, is delayed until May 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** Richard Fitzgerald, Forest Service, Forest Management Staff, (202) 205–1753. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

Dated: March 25, 2009.

**Ann Bartuska,**

*Acting Deputy Under Secretary, Natural Resources and Environment.*

[FR Doc. E9–7075 Filed 3–26–09; 11:15 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

[FWS–R7–EA–2007–0025; 70101–1335–0064L6]

**RIN 1018-AV72**

#### Subsistence Management Regulations for Public Lands in Alaska—2009–10 and 2010–11 Subsistence Taking of Fish Regulations

**AGENCIES:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of fish for subsistence uses during the 2009–10 and 2010–11 regulatory years. The Federal Subsistence Board completes the biennial process of

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Parts 223 and 261

**RIN 0596-AB81**

#### Sale and Disposal of National Forest System Timber; Special Forest Products and Forest Botanical Products

**AGENCY:** Forest Service, USDA.