

**Regulatory Findings***A. Administrative Procedure Act*

The Department of State is of the opinion that waiver of visa and passport requirements for foreign armed forces and coast guards is a foreign affairs function of the United States Government and that rules implementing this function are exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the Administrative Procedure Act.

*B. Regulatory Flexibility Act/Executive Order 13272: Small Business*

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule regulates individual aliens applying for visas under INA section 101(A)(15) and does not affect any small entities, as defined in 5 U.S.C. 601(6).

*C. The Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. Law 104–4, 109 Stat. 48, codified at 2 U.S.C. 1532) generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

*D. Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121). This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

*E. Executive Order 12866*

The Department is of the opinion that waiver of visa and passport requirements for foreign armed forces and coast guards is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866. However, the Department has reviewed the proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Order.

*F. Executive Order 13563: Improving Regulation and Regulatory Review*

The Department has considered this rule in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein.

*G. Executive Orders 12372 and 13132: Federalism*

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

*H. Executive Order 12988: Civil Justice Reform*

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*I. Executive Order 13175*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

*J. Paperwork Reduction Act*

This rule does not impose new information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

**List of Subjects in 22 CFR Part 41**

Aliens, Foreign officials, Passports and visas, Students.

For the above reasons, 22 CFR Part 41 is amended as follows:

**PART 41—[AMENDED]**

■ 1. The authority citation for Part 41 is revised to read as follows:

**Authority:** 8 U.S.C. 1104, 1182(d), 1185 note; 112 Stat. 2681–795.

■ 2. Section 41.3 is amended by revising the introductory text and paragraph (e), to read as follows:

**§ 41.3 Waiver by joint action of consular and immigration officers of passport and/or visa requirements.**

Under the authority of INA 212(d)(4), the documentary requirements of INA 212(a)(7)(B)(i)(I), (i)(II) may be waived for any alien in whose case the consular officer serving the port or place of embarkation, or the Deputy Assistant Secretary of State for Visa Services or his or her designee, is satisfied after consultation with, and concurrence by, the appropriate immigration officer, that the case falls within any of the following categories:

\* \* \* \* \*

(e) *Members of armed forces and coast guards of foreign countries; visa and passport waiver.* An alien on active duty in the armed forces or coast guard of a foreign country and a member of a group of such armed forces or coast guard traveling to the United States, on behalf of the alien's government or the United Nations, under arrangements made with the appropriate military authorities of the United States, coordinated within the U.S. Government by those U.S. military authorities, and approved by the Department of State and the Department of Homeland Security for such visit.

\* \* \* \* \*

Dated: March 28, 2014.

**Janice L. Jacobs,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket Number USCG–2014–0034]

**RIN 1625–AA00**

**Safety Zone, Texas City Channel; Texas City, TX**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Direct final rule.

**SUMMARY:** By this direct final rule, the Coast Guard is removing the regulation

for the safety zone at Snake Island, also known as Shoal Point, within the Texas City Channel. The Coast Guard is removing the regulation because it places general restrictions on vessels which are no longer necessary.

**DATES:** This rule is effective on July 7, 2014, unless the Coast Guard receives written adverse comments or written notice of intent to submit adverse comments on or before May 8, 2014. If the Coast Guard receives a written adverse comment or written notice of intent to submit a written adverse comment, the Coast Guard will publish a timely withdrawal of this Direct Final Rule.

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

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

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

*Mail or Delivery:* 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LTJG William Stewart, Marine Safety Unit Texas City, U.S. Coast Guard; telephone (409) 978-2730, email [William.a.stewart@uscg.mil](mailto:William.a.stewart@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Acronyms**

CFR Code of Federal Regulation  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking  
VTS Vessel Traffic Service

##### **A. 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.

##### **1. Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking, 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 at <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, 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 email address, or a telephone 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>, type the docket number [USCG-2014-0034] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

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 comments 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 the rule based on your comments.

##### **2. 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>, type the docket number (USCG-2014-0034) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit 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.

##### **3. 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).

##### **4. Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the 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**.

##### **B. Regulatory History and Information**

The Coast Guard proposed to establish a safety zone at Snake Island on July 31, 1981 to assist in managing port congestions. The safety zone became a final rule on July 8, 1982 [47 FR 13802]. On June 29, 2000, the safety zone was amended to reflect a name change from Captain of the Port, Galveston to Captain of the Port, Houston-Galveston. The safety zone is currently codified as amended at 33 CFR 165.804.

We are publishing this direct final rule under 33 CFR 1.05-55 because this rule removes a regulatory burden found no longer necessary and no adverse comments are expected. If no adverse comment or notice of intent to submit an adverse comment is received by May 8, 2014, this rule, removing an existing safety zone regulation, will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, we will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if we receive an adverse comment or notice of intent to submit an adverse comment, we will publish a document in the **Federal Register** announcing the withdrawal of all or part of this direct final rule. If an adverse comment applies only to part of this rule (e.g., to an amendment, a paragraph, or a section) and it is possible to remove that part without defeating the purpose of this rule, we may adopt, as final, those parts of this rule on which no adverse comment was received. We will withdraw the part of this rule that was the subject of an adverse comment. If we decide to proceed with a rulemaking following receipt of an adverse comment, we will publish a separate notice of proposed

rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered “adverse” if the comment explains why this rule or a part of this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

### C. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 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, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones.

The purpose of this direct final rule is to remove the regulation found in 33 CFR 165.804 that established a safety zone restriction in the Texas City Channel. The Coast Guard finds that the present regulation imposes a continuous prohibition from mooring and fleeting on Snake Island that is no longer necessary.

### D. Discussion of the Final Rule

On June 3, 2013, the Port of Texas City requested the Captain of the Port Houston-Galveston remove the safety zone currently enforced on the west and northwest shores of Snake Island. The Port of Texas City petitioned for the safety zone removal for “the safety of the users of the Texas City Harbor and to assist in managing the vessel traffic in the Port of Texas City”. With the significant increase in vessel size and traffic during the past thirty years, the Texas City Harbor is not wide enough to accommodate barge traffic passing while ships are docking or sailing. Thus, under the current regulation found under 33 CFR 165.804, barge traffic is subject to queuing in the Texas City Channel for multiple hours, often navigating amongst other vessel traffic and adverse weather conditions. By removing the safety zone on Snake Island, barge traffic will be afforded the opportunity to moor along the shoreline, lessening harbor congestion and reducing the risk for marine casualties.

A regulation that imposes a continuous prohibition from mooring and fleeting on Snake Island is no longer necessary for the following reasons: (1) The Coast Guard established a Vessel Traffic Service (VTS) in 1994 [Federal Register Volume 59, Number 135 (Friday, July 15, 1994)] which adequately manages vessel movements; (2) the Port of Texas City has established a Harbormaster, who further facilitates

traffic movements and berthing arrangements; and (3) the Coast Guard implemented a permanent security zone in Texas City, Texas established under 33 CFR 165.814 which encompasses the west and northwest approaches to Snake Island. This security zone restricts certain vessels from entering specified areas and facilities within the port, which effectively helps to manage traffic. Over time, by establishing a Harbormaster, VTS, and certain other regulations the subject safety zone under 33 CFR 165.804, has become unnecessary for its original purpose to manage congestion.

The Port of Texas City’s request to remove this safety zone has received broad support and has been endorsed by the Galveston-Texas City Pilot’s Association, Lone Star Harbor Safety Committee, and Sector Houston-Galveston Vessel Traffic Service. Additionally, the owner of Snake Island, the City of Texas City has no objections to this proposal.

### E. Regulatory Analyses

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

#### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Because this rule is removing all safety zone restrictions under 33 CFR 165.804, it is not a significant regulatory action. No new restrictions or actions are being imposed by this rule.

#### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

This rule removes all restrictions imposed by the safety zone regulation under 33 CFR 165.804. Therefore, the

Coast Guard finds that this rule will not have a significant economic impact on a substantial number of small entities.

#### 3. 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 rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. 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 (adjusted for inflation) 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.

#### *8. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### *9. 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.

#### *10. 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.

#### *11. 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.

#### *12. Energy Effects*

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### *13. Technical Standards*

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### *14. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the

Commandant Instruction. An environmental checklist and categorical exclusion determination are not required under 34(g), for regulations disestablishing a safety zone. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### **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—[AMENDED]**

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

**Authority:** 33 U.S.C. 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

#### **§ 165.804 [REMOVED]**

■ 2. Remove § 165.804.

Dated: February 21, 2014.

**Brian K. Penoyer,**  
*Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.*

[FR Doc. 2014–07839 Filed 4–7–14; 8:45 am]

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