

Determination" is not required for this final rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From February 18, 2002, through February 28, 2003, § 117.789 is temporarily amended by suspending paragraph (c) and adding a new paragraph (g) to read as follows:

§ 117.789 Harlem River.

* * * * *

(g) The draws of the bridges at 103rd Street, mile 0.0, Willis Avenue, mile 1.5, 3rd Avenue, mile 1.9, Madison Avenue, mile 2.3, 145th Street, mile 2.8, Macombs Dam, mile 3.2, the 207th Street, mile 6.0, and the two Broadway bridges, mile 6.8, shall open on signal from 10 a.m. to 5 p.m. if at least a four-hour advance notice is given to the New York City Highway Radio (Hotline) Room; except that the Madison Avenue Bridge, mile 2.3, need not open for vessel traffic from February 18 through May 24, 2002 and the Macombs Dam Bridge, mile 3.2, need not open for vessel traffic from April 2 through June 30, 2002 and from December 1, 2002 through February 28, 2003.

Dated: January 23, 2002.

G.N. Naccara,

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

[FR Doc. 02-3517 Filed 2-12-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 01-022]

RIN 2115-AA97

Security Zones; Port of San Diego, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a moving and fixed security zone 100 yards around all cruise ships that enter, are moored in, or depart from the Port of San Diego. This security zone is needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port San Diego, or his designated representative.

DATES: This rule is effective from 11:59 p.m. PST on November 5, 2001 to 11:59 p.m. PDT on June 21, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP San Diego 01-022 and are available for inspection or copying at Coast Guard Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, California, 92101, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Joseph Brown, Port Safety and Security, at (619) 683-6495.

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. Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect the public, ports, and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners advising of these new regulations.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of San Diego, against cruise ships entering, departing, or moored within the port of San Diego. The terrorist acts against the United States on September 11, 2001, have increased the need for safety and security measures on U.S. ports and waterways. In response to these terrorist acts, and in order to prevent similar occurrences, the Coast Guard has

established a security zone around cruise ships to protect persons, transiting vessels, adjacent waterfront facilities, and the adjacent land of the Port of San Diego. These security zones are necessary to prevent damage or injury to any vessel or waterfront facility, and to safeguard ports, harbors, or waters of the United States near San Diego, California. This zone will be enforced by the official patrol (Coast Guard commissioned, warrant or petty officers) onboard Coast Guard vessels and patrol craft. The official patrol may also be onboard patrol craft and resources of any government agency that has agreed to assist the Coast Guard in the performance of its duties.

Persons and vessels are prohibited from entering into this security zone unless authorized by the Captain of the Port or his designated representative. Each person and vessel in a security zone must obey any direction or order of the COTP. The COTP may remove any person, vessel, article, or thing from a security zone. No person may board, or take or place any article or thing on board any vessel in a security zone without the permission of the COTP.

Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than \$250,000), in rem liability against the offending vessel, and license sanctions. Any person who violates this regulation, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years (class C felony).

This security zone prohibits all vessels and people from approaching cruise ships that are underway or moored near San Diego, California. Specifically, no vessel or person may close to within 100 yards of a cruise ship that is entering, moored in, or departing the Port of San Diego.

A security zone is automatically activated when a cruise ship passes the San Diego sea buoy while entering port and remains in effect while the vessel is moored within in the Port of San Diego, California. When activated, this security zone will encompass a portion of the waterway described as a 100 yard radius around a cruise ship in the Port of San Diego. This security zone is automatically deactivated when the cruise ship passes the San Diego sea buoy on its departure from port. Vessels

and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port.

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 Transportation (DOT)(44 FR 11040, February 26, 1979) because these zones will encompass a small portion of the waterway for a limited duration.

The Port of San Diego can accommodate only a few cruise ships moored at the same time. Most cruise ships calls at each location occur on only one day each week, and are generally less than 18 hours in duration. Also, vessels and people may be allowed to enter the zones on a case-by-case basis with authorization from the Captain of the Port.

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.

For the same reasons stated in the section above, 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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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).

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. 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 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. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. 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 a new temporary § 165.T11-030 to read as follows:

§ 165.T11-030 Security Zones; Port of San Diego.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all cruise ships while entering or departing the Port of San Diego. These moving security zones are activated when the cruise ship passes the Los Angeles sea buoy while entering the Port of San Diego. Temporary fixed security zones are established 100 yards around all cruise ships docked in the Port of San Diego. This security zone is deactivated when the cruise ship passes the sea buoy on its departure from the Port of San Diego.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, the following rules apply to security zones established by this section:

(i) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(ii) Each person and vessel in a security zone must obey any direction or order of the Captain of the Port;

(iii) The Captain of the Port may take possession and control of any vessel in a security zone;

(iv) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(v) No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port; and

(vi) No person may take or place any article or thing upon any waterfront facility in a security zone without the permission of the Captain of the Port.

(2) The Captain of the Port will notify the public, via local broadcast notice to mariners, upon activation of security zone around cruise ships transiting San Diego Harbor.

(3) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from complying with the rules of the road and safe navigation practice.

(4) The regulations of this section will be enforced by the Captain of the Port San Diego, or his authorized representative, and the San Diego Harbor Police.

(c) *Dates.* This section becomes effective at 11:59 p.m. PST on November 5, 2001, and will terminate at 11:59 p.m. PDT on June 21, 2002.

Dated: November 4, 2001.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 02-3512 Filed 2-12-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[COTP Western Alaska 02-004]

RIN 2115-AA97

Security Zones; Liquefied Natural Gas Tanker Transits and Operations in Cook Inlet, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary 1000-yard radius security zones in the navigable waters around liquefied natural gas (LNG) tankers while they are moored and loading at Phillips Petroleum LNG Pier and while they are transiting outbound and inbound through the waters of Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. These security zones temporarily close all navigable waters within a 1000-yard radius of the tankers. This action is necessary to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community against sabotage or subversive acts.

DATES: This temporary final rule is effective from 12:01 a.m. January 28, 2002, until 12:01 a.m. April 30, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP Western Alaska 02-004 and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, Alaska between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mark McManus, USCG Marine Safety Detachment Kenai, at (907) 283-3292 or Lieutenant Commander Chris Woodley, USCG Marine Safety Office Anchorage, at (907) 271-6700.

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), we find that good cause exists for not publishing an NPRM, and that 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**. Because of the terrorist activities on September 11, 2001 and subsequent heightened security alerts, any delay in the effective date of this rule would be contrary to the public interest, as immediate action is needed

to protect the liquefied natural gas (LNG) tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. In addition, the Coast Guard will make public notifications prior to an LNG transit via marine information broadcasts to advise the maritime community when the security zones will be activated.

Background and Purpose

In light of the terrorist attacks in New York City and Washington, DC on September 11, 2001, the Coast Guard is establishing security zones on the navigable waters of Cook Inlet, Alaska to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. These security zones prohibit movement within or entry into the specified areas.

This rule establishes temporary 1000-yard radius security zones in the navigable waters around LNG tankers while moored and loading at Phillips Petroleum LNG Pier, Nikiski, Alaska and during their outbound and inbound transits through Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. The security zones are designed to permit the safe and timely loading and transit of the tankers. The security zones' 1000-yard standoff distance also aids the safety of these LNG tankers by minimizing potential waterborne threats to the operation. The limited size of the zones are designed to minimize impact on other mariners transiting through the area while ensuring public safety by preventing interference with the safe and secure loading and transit of the tankers.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12886, 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 Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zones and