

government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for the temporary final rule.

#### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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.

#### 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 April 22, 2002 through October 31, 2002, § 117.799 is temporarily amended by suspending paragraph (e) and adding a new paragraph (j) to read as follows:

#### § 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

\* \* \* \* \*

(j) The Atlantic Beach Bridge, mile 0.4, across Reynolds Channel, from April 22, 2002 through October 31, 2002, shall open on signal, except as follows:

(1) Only one moveable bridge span need be opened for the passage of vessel traffic between 7 a.m. to 5 p.m., daily, except as provided in paragraph (j)(3) of this section.

(2) From 4 p.m. to 7 p.m. on weekdays, and from 11 a.m. to 9 p.m. on weekends and holidays, the draw shall open on signal only on the hour and half-hour, except as provided in paragraph (j)(3) of this section.

(3) From one-hour before to one-hour after the predicted high tide, two moveable spans may be opened for the passage of vessel traffic, provided at least a two-hour advance notice is given by calling the number posted at the bridge. For the purposes of this section, predicted high tide occurs 10 minutes earlier than that predicted for Sandy Hook, as given in the tide tables published by the National Oceanic and Atmospheric Administration.

Dated: April 17, 2002.

G.N. Naccara,

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

[FR Doc. 02-10176 Filed 4-24-02; 8:45 am]

BILLING CODE 4910-15-P

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[COTP Western Alaska-02-007]

RIN 2115-AA97

#### Security Zone; Liquefied Natural Gas (LNG) Tanker Transits and Operations at Phillips Petroleum LNG Pier, Cook Inlet, AK

**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. April 30, 2002, until 12:01 a.m. July 6, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket (COTP Western Alaska-02-007) 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 measures, any delay in the effective date of this rule would be contrary to the public interest, as immediate action is needed 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. 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, D.C. 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 that vessels may still transit through the waters of Cook Inlet. Vessels submitting a 96-hour Advanced Notice of Arrival and receiving prior approval of the Captain of the Port, Western Alaska, can dock at other Nikiski marine terminals while the security zone is in effect.

#### **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 will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the Phillips Petroleum LNG Pier during the time these zones are activated.

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Marine traffic will still be able to transit through Cook Inlet during the zones' activation. Additionally, vessels with prior approval from the Captain of the Port, Western Alaska and those vessels scheduled to dock at one of the Nikiski marine terminals who have submitted a Notice of Arrival will not be precluded from mooring at or getting underway from other Nikiski marine terminals in the vicinity of the zone.

#### **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.

#### **Consultation and Coordination With 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

The Coast Guard considered the environmental impact of this 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. This rule fits paragraph 34(g) as it establishes a security zone. 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), 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. 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 temporary § 165.T17–010 to read as follows:

#### **§ 165.T17–010 Security Zone: Liquefied Natural Gas (LNG) Tanker Transits and Operations at Phillips Petroleum LNG Pier, Cook Inlet, Alaska.**

(a) *Location.* The following areas are security zones: All navigable waters within a 1000-yard radius of liquefied natural gas (LNG) tankers while moored at Phillips Petroleum LNG Pier, 60°40′43″N and 151°24′10″W and all navigable waters within a 1000-yard radius of the tankers during their outbound and inbound transits through Cook Inlet, Alaska between Homer Pilot Station at 59°34′86″N and 15°25′74″W and Phillips Petroleum LNG Pier.

(b) *Effective period.* This section is effective from 12:01 a.m. April 30, 2002, until 12:01 a.m. July 6, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port representative or the

designated on-scene patrol personnel. These personnel are comprised of commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 16, 2002.

**W.J. Hutmacher,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

[FR Doc. 02–10179 Filed 4–24–02; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 334

#### United States Navy Restricted Area, Kennebec River, Maine

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations to establish a restricted area in waters adjacent to the Bath Iron Works Shipyard in Bath, Maine. This amendment will close off an open area all along the shipyard's piers down the west bank of the Kennebec River from the railroad bridge to the south end of the shipyard. The regulations are necessary to safeguard Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

**EFFECTIVE DATE:** May 28, 2002.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW, Washington, DC 20314–1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Richard Roach, Corps of Engineers, New England District, Regulatory Division, at (978) 318–8211 or (800) 343–4789.

#### **SUPPLEMENTARY INFORMATION:**

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR Part 334 by

adding Section 334.45 to establish a restricted area in waters adjacent to the Bath Iron Works Shipyard at Bath, Maine.

### Procedural Requirements

#### *a. Review Under Executive Order 12866*

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

#### *b. Review Under the Regulatory Flexibility Act*

This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps expects that the economic impact of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal will have no significant economic impact on small entities.

#### *c. Review Under the National Environmental Policy Act*

The New England District has prepared an Environmental Assessment (EA) for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the New England District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

#### *d. Unfunded Mandates Act*

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

#### *e. Submission to Congress and the General Accounting Office*

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General