

This AD may then be removed from the AFM.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directives 2001-608(B) and 2001-609(B), both dated December 12, 2001.

Issued in Renton, Washington, on May 15, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-02-045]

RIN 2115-AA97

Safety and Security Zones; Portsmouth Harbor, Portsmouth, NH

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety and security zones in the Captain of the Port, Portland, Maine zone, 1 mile ahead, ½ mile astern, and 1000-yards on either side of any vessel capable of carrying Liquefied Petroleum Gas (LPG). This rulemaking also proposes to establish safety and security zones of 500-yards around any LPG vessel while it is moored at the LPG receiving facility located on the Piscataqua River in Newington, New Hampshire. Entry or movement within these zones, without the express permission of the Captain of the Port, Portland, Maine or his authorized patrol representative, is strictly prohibited.

DATES: Comments and related materials must reach the U. S. Coast Guard on or before July 22, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office, Portland, 103 Commercial Street, Portland, Maine 04101. The Port Operations Department maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) W. W. Gough, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780-3251.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD01-02-045, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland, Maine at the address under **ADDRESSES** explaining why one 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**.

Background and Purpose

On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts, and flown into the World Trade Center in New York, New York, inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon on the same day. National security and intelligence

officials warn that future terrorist attacks are possible. Due to these heightened security concerns, safety and security zones are prudent for Liquefied Petroleum Gas (LPG) tank vessels, which may be likely targets of terrorist attacks due to the flammable nature of LPG and the serious impact on the Port of Portsmouth, New Hampshire and surrounding areas that may be incurred if an LPG vessel was subjected to a terrorist attack.

On November 20, 2001, a temporary final rule (TFR) entitled "Safety and Security Zones; LPG Transits, Portland, Maine Marine Inspection Zone and Captain of the Port Zone" was published in the **Federal Register** (66 FR 58064). This TFR, effective from November 9, 2001 until June 21, 2002, suspended 33 CFR 165.103 and temporarily established the safety and security zone being permanently proposed by this Notice of Proposed Rulemaking (NPRM). The TFR has been extended until August 15, 2002 to allow time to develop the permanent rule being proposed (67 FR 30807, May 8, 2002).

Discussion of Proposed Rule

This rulemaking proposes to establish safety and security zones in a radius around LPG vessels while the vessels are moored at the LPG receiving facility on the Piscataqua River in Newington, New Hampshire. It would also create moving safety and security zones any time a LPG vessel is within the Captain of the Port, Portland, Maine zone, as defined in 33 CFR 3.05-15, in the internal waters of the United States and the navigable waters of the United States. Under the Ports and Waterways Safety Act, the navigable waters of the United States include all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988. This Presidential Proclamation declared that the territorial sea of the United States extends to 12 nautical miles from the baseline of the United States determined in accordance with international law.

This rulemaking proposes to establish safety and security zones with identical boundaries covering the following areas of the Captain of the Port, Portland, Maine zone: (a) All waters of the Piscataqua River within a 500-yard radius of any Liquefied Petroleum Gas vessel while it is moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire; and (b) except as provided in paragraph (a) of this section, in the waters of the Captain of the Port, Portland, Maine zone, all waters one mile ahead, one half mile astern, and 1000-yards on

either side of any Liquefied Petroleum Gas vessel.

This proposed rulemaking would revise a current safety zone for transits of tank vessels carrying Liquefied Petroleum Gas in Portsmouth Harbor, Portsmouth, New Hampshire. Title 33 CFR 165.103 currently provides for a safety zone during the transit of loaded LPG vessels as follows: The waters bounded by the limits of the Piscataqua River Channel and extending 1000-yards ahead and 500-yards astern of tank vessels carrying LPG while the vessel transits Bigelow Bight, Portsmouth Harbor, and the Piscataqua River to the LPG receiving facility at Newington, New Hampshire until the vessel is safely moored and while the vessel transits outbound from the receiving facility through the Piscataqua River, Portsmouth Harbor and Bigelow Bight until the vessel passes the Gunboat Shoal Lighted Bell Buoy "1" (LLNR 185). Title 33 CFR 165.103 recognizes the safety concerns with transits of large tank vessels, but is inadequate to protect LPG vessels from possible terrorist attack, sabotage or other subversive acts. National security and intelligence officials warn that future terrorist attacks against civilian targets are possible. Due to the flammable nature of LPG vessels and the impact ignition of this cargo would have on Portsmouth Harbor, areas along the Piscataqua River and surrounding areas, increased protection of these vessels is necessary.

In comparison to 33 CFR 165.103, this proposed rulemaking would provide increased protection for LPG vessels as follows: It would establish 500-yard safety and security zones around LPG vessels while moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire. It would also provide continuous protection for LPG vessels by establishing safety and security zones 1 mile ahead, 1/2 mile astern, and 1000-yards on each side of LPG vessels anytime a vessel is within the waters of the Captain of the Port, Portland, Maine zone rather than limiting the protection to vessels carrying LPG that are transiting to and from the facility. It would also extend the zones to 1000-yards on either side of the vessel rather than limiting the zone to the limits of the Piscataqua River Channel.

The increased protection provided in this proposed rulemaking also recognizes the safety concerns associated with an unloaded LPG vessel. Currently, 33 CFR 165.103 only establishes a safety zone around a loaded LPG tank vessel or while the vessel is transferring its cargo. This

proposed rulemaking would establish safety and security zones around any LPG vessel, loaded or unloaded, any time a LPG vessel is located in the Captain of the Port, Portland, Maine zone, including the internal waters and out to 12 nautical miles from the baseline of the United States. These proposed zones would provide necessary protection to unloaded vessels, which continue to pose a safety and security hazard due to ignition of the vapor material. This proposed rulemaking also recognizes the continued need for safety zones around LPG vessels, which are necessary to protect persons, facilities, vessels and others in the maritime community, from the hazards associated with the transit and limited maneuverability of a large tank vessel.

No person or vessel would be able to enter or remain in the proposed safety and security zones at any time without the permission of the Captain of the Port, Portland, Maine. Each person or vessel in a safety and security zone would be required to obey any direction or order of the Captain of the Port, Portland, Maine. The Captain of the Port, Portland, Maine would be able to take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person would be able to board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port, Portland, Maine.

Any violation of any safety or security zone described herein, is punishable by, among others, civil penalties (not to exceed \$25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than \$250,000), in rem liability against the offending vessel, and license sanctions.

Regulatory Evaluation

This proposed rulemaking 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).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the

regulatory policies and procedures of DOT is unnecessary for the following reasons: (a) The proposed safety and security zones would encompass only a portion of the Captain of the Port, Portland, Maine zone around the transiting LPG vessel, allowing vessels to safely navigate around the zones without delay (b) while the LPG vessel is transiting the Piscataqua River, maritime advisories would be broadcast to advise the maritime community of the safety and security zones, allowing vessels to plan their safe navigation around the zones (c) the proposed safety and security zones while the vessel is moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire, would be small enough to allow vessels to navigate safely around the zones without delay.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we have considered whether this proposed 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 reasons enumerated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605 (b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. There is no indication the present rule has been burdensome on the maritime public. No letters commenting on the present rule have been received from the public.

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), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Lieutenant

(Junior Grade) W. W. Gough, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780-3251.

Collection of Information

This proposed rule would call 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 proposed rule under that Order and have determined that it does not have implications for federalism.

Taking of Private Property

This proposed 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 proposed rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

Energy Effects

The Coast Guard has analyzed this proposed 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 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

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. Revise § 165.103 to read as follows:

§ 165.103 Safety and Security Zones; LPG Vessel Transits in Captain of the Port Portland, Maine Zone, Portsmouth Harbor, Portsmouth New Hampshire.

(a) **Location.** The following areas are safety and security zones: (1) All waters of the Piscataqua River within a 500-yard radius of any Liquefied Petroleum Gas (LPG) vessel while it is moored at the LPG receiving facility on the Piscataqua River, Newington, New Hampshire; and (2) except as provided in paragraph (a)(1) of this section, in the waters of the Captain of the Port, Portland, Maine zone, all waters one mile ahead, one half mile astern, and 1000-yards on either side of any Liquefied Petroleum Gas vessel.

(b) **Regulations.** (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or

movement within these zones is prohibited unless previously authorized by the Captain of the Port (COTP), Portland, Maine.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels. Emergency response vessels are authorized to move within the zone, but must abide by restrictions imposed by the Captain of the Port, Portland, Maine.

(3) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Portland, Maine or his authorized patrol representative.

Dated: May 13, 2002.

M.P. O'Malley,

Commander, Coast Guard, Captain of the Port, Portland, ME.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO-001-0067; FRL-7215-9]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver PM₁₀ Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 30, 2001, the Governor of the State of Colorado submitted a State Implementation Plan (SIP) revision for the purpose of establishing a redesignation for the Denver, Colorado area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM₁₀) under the 1987 standards. The Colorado Air Pollution Control Division's submittal, among other things, documents that the Denver area has attained the PM₁₀ national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for the area demonstrating maintenance of the PM₁₀ NAAQS for thirteen years. EPA is proposing to approve the redesignation