

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.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, and 160.5; 49 CFR 1.46.

2. Add a new § 165.167 to read as follows:

§ 165.167 Safety Zone; East River Western Channel, Manhattan, NY.

(a) *Location.* The waters of the East River enclosed by a line connecting the following boundaries are established as a safety zone: beginning on the Manhattan riverbank at a point 40°45'35.7" N, 073°57'25.2" W (Point A), thence southeasterly to a point 40°45'34.6" N, 073°57'24.4" W (Point B), thence southwesterly along the western boundary of the federal navigable channel to a point 40°45'10.1" N, 073°57'46.6" W (Point C), then northwesterly to the Manhattan riverbank at a point 40°45'10.5" N, 073°57'48.9" W (Point D), thence northeasterly along the riverbank to the place of beginning (Point A). All coordinates are North American Datum 1983.

(b) *Regulations.* The general regulations contained in § 165.23 of this part apply.

Dated: July 18, 2002.

C.E. Bone,

Captain, Coast Guard, Captain of the Port, New York.

[FR Doc. 02–18921 Filed 7–25–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–023]

RIN 2115–AA97

Safety and Security Zone; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston, Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety and security zones for liquefied natural gas carrier (LNGC) vessels and a liquefied natural gas facility within the Boston Captain of the Port Zone. Entry into or movement within these zones would be prohibited without prior authorization from the Captain of the Port (COTP), Boston, MA. These zones are needed to safeguard the LNGC vessels and Liquid Natural Gas (LNG) facility, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature, and are needed to protect persons, vessels and others in the maritime community from the safety hazards associated with the transit and limited maneuverability of an LNGC vessel.

DATES: Comments and related material must reach the Coast Guard on or before August 26, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office Boston, 455 Commercial Street, Boston, MA. Marine Safety Office Boston maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket (CGD01–02–023), will become part of the docket and will be available for inspection or copying at Marine Safety Office Boston between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Dave Sherry, Marine Safety Office Boston, Maritime Security Operations Division, at (617) 223–3030.

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 (CGD1–02–023),

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 that your comments 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

The Coast Guard does not plan to hold a public meeting regarding this proposed rule. However, you may submit a request for a meeting by writing to Marine Safety Office Boston at the address listed under **ADDRESSES**, explaining why one would be beneficial. If we determine a meeting would aid in this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

In light of the terrorist attacks in New York City and Washington, D.C. on September 11, 2001, safety and security zones are being established to safeguard the liquefied natural gas carrier (LNGC) vessels and Liquefied Natural Gas (LNG) facilities, the public and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature, and to protect persons, vessels and others in the maritime community from the hazards associated with the transit and limited maneuverability of a LNGC vessel. These safety and security zones would prohibit entry into or movement within the specified areas.

The Coast Guard proposes establishing safety and security zones around LNGC vessels while the vessels are anchored in the waters of Broad Sound. This rule would also create a moving safety zone around any LNGC vessel within navigable waters of the United States in the Captain of the Port (COTP) Boston zone, as defined in 33 CFR 3.05–10. To the extent that it is applicable, under the Ports and Waterways Safety Act, (33 U.S.C.S. 1221 *et seq.*, and 46 U.S.C.S. 391a) 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.

The Captain of the Port anticipates some impact on vessel traffic due to this proposed regulation. However, the safety and security zones are deemed necessary for the protection of life and property within the COTP Boston zone.

Discussion of Proposed Rule

The Coast Guard proposes to establish three pairs of safety and security zones with identical boundaries, within the COTP Boston zone. The first pair of safety and security zones are proposed in all waters of Broad Sound within a 500-yard radius of any anchored LNGC vessel located within an area bounded by a line starting at position 42°25' N, 070°58' W; then running southeast to position 42°22' N, 070°56' W; then running east to position 42°22' N, 070°50' W; then running north to position 42°25' N, 070°50' W; then running west back to the starting point. The second pair of zones proposed would be in all waters of the Mystic River within a 400-yard radius of any LNGC vessel moored at the Distrigas LNG facility in Everett, MA. Finally, except as enumerated above, safety and security zones are proposed two miles ahead and one mile astern, and 500 yards on each side of any LNGC vessel underway within the COTP Boston zone. All coordinates are NAD 83.

This proposed rulemaking would replace the established safety zone listed at 33 CFR 165.110. That safety zone does not provide the current level of necessary protection. Section 165.110 recognizes the safety concerns with transits of LNGC vessels, but is inadequate to protect LNGC vessels from possible terrorist attack, sabotage or other subversive acts. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. Due to the flammable nature of LNGC vessels and impact the ignition of this cargo could have on the port of Boston and surrounding areas, increased protection of these vessels and the Distrigas facility is necessary.

This proposed rulemaking would provide increased protection for LNGC vessels moored at the Distrigas facility and establishes protection for the vessels in Broad Sound. It would also provide continuous protection for LNGC vessels 2 miles ahead, 1 mile astern, and 500 yards on each side of an LNGC vessel anytime a vessel is underway within the COTP Boston zone, rather than limiting this protection to the Boston Main Ship Channel while a vessel is transiting Boston Harbor and Boston North Channel (as does the previous zone in § 165.110).

The increased protection provided in this proposed rulemaking also recognizes the safety concerns associated with an unloaded LNGC vessel. 33 CFR 165.110 only establishes safety zones around loaded LNG tank vessels or while the vessel is transferring its cargo. This proposed rulemaking would establish safety and security zones around any LNGC vessel, loaded or unloaded, while anchored in Broad Sound, at the Distrigas facility pier, and any time a LNGC vessel is located in the Boston Marine Inspection Zone and Captain of the Port Zone, including the internal waters and out to 12 nautical miles from the baseline of the United States. These zones would provide necessary protection to unloaded vessels, which continue to pose a safety and security risk if unprotected. This proposed rulemaking also recognizes the continued need for safety zones around LNGC 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 LNGC vessel laden with LNG or residual cargo.

The Coast Guard recognizes that operational marine terminals are presently adjacent to the Distrigas, Everett MA facility and could be impacted by this proposed rule. The Coast Guard does not seek to hinder the operations these facilities conduct in the course of their normal business. The Coast Guard would not restrict the normal everyday business of these adjacent facilities under this proposed rule, and would permit them to continue normal pierside and waterside activities as they always have. However, in the event a significant security risk exists on their properties or a terrorist event is imminent or has occurred, these activities may come under increased scrutiny and possible restrictions.

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. 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. The Captain of the Port would be able to take possession and control of any vessel in a security zone and 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. To the extent that it is applicable, these regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225, 1226.

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 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).

The Coast Guard expects the economic impact of this proposed rule to be minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

There may be some adverse effects on the maritime community by this proposed rule, but those effects would be minimized by: the minimal time that vessels would be restricted from the areas, the ample room for vessels to navigate around the zones in Broad Sound and, in most portions of the navigable waters of the United States, the fact that vessels could transit ahead, behind, or after the passage of LNGC vessels. In addition, vessels would be able to request permission from the Captain of the Port or representatives on scene to pass through the zones, and advance notifications would be made to the local maritime community by marine information broadcasts and local notice to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard 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.

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. This rule would affect the

following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Broad Sound or Boston Harbor. For the reasons enumerated in the *Regulatory Evaluation* section above, in addition to the fact that small entities have been operating in the Captain of the Port Boston Zone under a similar regulation for over 16 years, these safety and security zones would 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 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 process. If your small business or organization would be affected by this rule and you have questions concerning its provisions or options for compliance, please call LT Dave Sherry, at (617) 223–3030. 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 proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard analyzed this proposed rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would 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 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

The Coast Guard analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Security Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to security 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 considered the environmental impact of this proposed rule and concluded that, under figure 2–1, (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 where indicated under **ADDRESSES**.

Energy Effects

We have 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 security, 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, and 160.5; 49 CFR 1.46.

2. Revise § 165.110 to read as follows:

§ 165.110 Safety and Security Zone; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston, Massachusetts.

(a) *Definitions.* For purposes of this section, *navigable waters of the United States* includes all waters of the territorial sea as described in Presidential Proclamation No. 5928 of December 27, 1988. Presidential Proclamation No. 5928 of December 27, 1988 declared that the territorial sea of the United States extends to 12 nautical miles from the baseline of the United States.

(b) *Location.* The following areas are safety and security zones:

(1) *Vessels underway.* All navigable waters of the United States within the Captain of the Port (COTP) Boston zone, as defined in 33 CFR 3.05–10, two miles ahead and one mile astern, and 500 yards on each side of any liquefied natural gas carrier (LNGC) vessel while underway.

(2) *Vessels anchored in the Broad Sound.* All waters within a 500-yard radius of any anchored LNGC vessel located in the waters of Broad Sound bounded by a line starting at position 42°25' N, 070°58' W; then running southeast to position 42°22' N, 070°56' W; then running east to position 42°22' N, 070°50' W; then running north to position 42°25' N, 070°50' W; then running west back to the starting point (NAD 83).

(3) *Vessels moored at the Distrigas LNG facility.* All waters within a 400-yard radius of any LNGC vessel moored at the Distrigas LNG facility in Everett, MA.

(c) *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 authorized by the Captain of the Port Boston, or his authorized representative.

(2) All vessel operators 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, local, State, and Federal law enforcement vessels.

Dated: June 11, 2002.

B.M. Salerno,

Captain, Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02-18920 Filed 7-25-02; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[USCG-2002-12876]

Port Access Routes Study; In the Approaches to Chesapeake Bay, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of study; request for comments.

SUMMARY: The Coast Guard is conducting a Port Access Routes Study (PARS) to evaluate the continued applicability of and the need for modifications to current vessel routing measures or the creation of new vessel routing measures in the approaches to Chesapeake Bay, Virginia. The goal of the study is to help reduce the risk of marine casualties and increase vessel traffic management efficiency in the study area. The recommendations of the study may lead to future rulemaking action or appropriate international agreements.

DATES: Comments and related material must reach the Docket Management Facility on or before September 24, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2002-12876), U.S. Department of Transportation, Room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this document. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of study, call Lieutenant Junior Grade Anne Grabins, Project Officer, Aids to Navigation and Waterways Management Branch, Fifth Coast Guard District, telephone 757-398-6559, e-mail Agrabins@lantd5.uscg.mil; or George Detweiler, Office of Vessel Traffic Management, Coast Guard, telephone 202-267-0574, e-mail Gdetweiler@comdt.uscg.mil. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this study by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this notice of study (USCG-2002-12876), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them 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.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this study, we will hold one at a time and place to be announced by a later notice in the **Federal Register**.

Definitions

The following definitions are of terms we may use during the Port Access Routes Study (PARS). We include them here for those who are unfamiliar with these terms and their abbreviations.

Area to be avoided (ATBA) means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all ships, or certain classes of ships.

Deep-water route is a route within defined limits, which has been accurately surveyed for clearance of sea bottom and submerged obstacles as indicated on nautical charts.

Inshore traffic zone is a routing measure comprising a designated area between the landward boundary of a traffic separation scheme and the adjacent coast, to be used in accordance with the provisions of Rule 10(d), as amended, of the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS).

Precautionary area means a routing measure comprising an area within defined limits where ships must navigate with particular caution and within which the direction of traffic flow may be recommended.

Recommended route means a route of undefined width, for the convenience of ships in transit, which is often marked by centerline buoys.

Recommended track is a route which has been specifically examined to ensure so far as possible that it is free of dangers and along which ships are advised to navigate.

Regulated navigation area (RNA) is a water area within a defined boundary for which regulations for vessels navigating within the area have been established under 33 CFR part 165.

Roundabout is a routing measure comprising a separation point or circular separation zone and a circular traffic lane within defined limits. Traffic within the roundabout is separated by