

siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(f) *Effective Dates.* This section becomes effective at 11 a.m. PST on February 13, 2003, and will terminate at 11:59 p.m. PDT on September 30, 2003.

Dated: February 13, 2003.

Steven J. Boyle,

Commander, Coast Guard, Acting Captain of the Port, San Francisco Bay, California.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Los Angeles-Long Beach 02-005]

RIN 1625-AA00 [Formerly RIN 2115-AA97]

Security Zone; Liquefied Hazardous Gas Tank Vessels San Pedro Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising current safety zone regulations by establishing security zones around and under all liquefied hazardous gas (LHG) tank vessels located on San Pedro Bay, California, in and near the ports of Los Angeles and Long Beach. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port Los Angeles-Long Beach.

DATES: This rule is effective March 21, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP Los Angeles-Long Beach 02-005] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Rob Griffiths, Assistant Chief of Waterways Management Division, at (310) 732-2020.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 27, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Security Zones; Liquefied Hazardous Gas Tank Vessels San Pedro Bay, CA" in the **Federal Register** (67 FR 79014). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Current regulations issued under 33 CFR 165.1151 provide for safety zones around LHG tank vessels that are anchored, moored, or underway near the Los Angeles-Long Beach port areas. However, these safety zones are inadequate to address increased security requirements for LHG tank vessels. On January 28, 2002, we published a temporary final rule (TFR) entitled "Security Zones; San Pedro Bay, California" in the **Federal Register** (67 FR 3814) that expired on June 15, 2002. On June 19, 2002, we published a similar TFR entitled "Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, CA" in the **Federal Register** (67 FR 41625) that expired on December 21, 2002.

On December 31, 2002, we published a similar TFR entitled "Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, CA" in the **Federal Register** (67 FR 79856) that is set to expire on March 21, 2003. The Captain of the Port has determined the need for continued security regulations exists. Accordingly, this rulemaking makes permanent the temporary security zones published in the **Federal Register** on December 31, 2002.

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 Maritime Administration recently issued a MARAD Advisory (03-01 (071900Z FEB 03)) informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The current TFR is set to expire March 21, 2003 and any delay in the effective date of this final rule is impractical and contrary to the public interest.

Background and Purpose

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan

and growing tensions in Iraq have made it prudent for U.S. ports to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations. Section 104 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107-295, 116 Stat. 2064) extended the geographical reach of the Magnuson Act to twelve nautical miles seaward of the baseline of the United States and added civil penalty liability for violation. However, this rulemaking does not exercise the full extent of the geographical limit allowed by the PWSA and the recently amended Magnuson Act. The Coast Guard retains discretion to extend the geographical reach of this rule via notice and comment procedures to the twelve nautical mile limit should circumstances warrant such action.

In this particular rulemaking, to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against a LHG tank vessel would have on the public interest, the Coast Guard is revising current LHG safety zone regulations by establishing security zones around and under LHG tank vessels entering, departing, or moored within the ports of Los Angeles and Long Beach. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against LHG tank vessels. The Coast Guard has determined the establishment of security zones is prudent for LHG tank vessels because they carry LHG cargoes in bulk.

Discussion of Comments and Changes

We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Therefore, we have made no changes and will implement the provision of the proposed rule as written.

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 Homeland Security (DHS).

We received no letters commenting on this section and have made no changes to the proposed rule.

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.

We received no letters commenting on this section and have made no changes to the proposed rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

We received no letters commenting on this section and have made no changes to the proposed 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.

We received no letters commenting on this section and have made no changes to the proposed rule.

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.

We received no letters commenting on this section and have made no changes to the proposed rule.

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.

We received no letters commenting on this section and have made no changes to the proposed rule.

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.

We received no letters commenting on this section and have made no changes to the proposed rule.

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.

We received no letters commenting on this section and have made no changes to the proposed rule.

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.

We received no letters commenting on this section and have made no changes to the proposed rule.

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.

We received no letters commenting on this section and have made no changes to the proposed rule.

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 because we are establishing security zones. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

We received no letters commenting on this section and have made no changes to the proposed 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—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 is revised 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; Department of Homeland Security Delegation No. 0170.

2. Revise § 165.1151 to read as follows:

§ 165.1151 Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, California.

(a) *Definition.* “Liquefied Hazardous Gas” as used in this section means a liquid containing one or more of the products listed in Table 127.005 of this part that is carried in bulk on board a tank vessel as liquefied petroleum gas, liquefied natural gas, or similar liquefied gas products.

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

(1) All waters, extending from the surface to the sea floor, within a 500 yard radius around any liquefied hazardous gas (LHG) tank vessel that is anchored at a designated anchorage either inside the Federal breakwaters bounding San Pedro Bay or outside at designated anchorages within three nautical miles of the breakwater;

(2) The shore area and all waters, extending from the surface to the sea floor, within a 500 yard radius around any LHG tank vessel that is moored, or in the process of mooring, at any berth within the Los Angeles or Long Beach port areas inside the Federal breakwaters bounding San Pedro Bay;

(3) All waters, extending from the surface to the sea floor, within 1000 yards ahead and 500 yards on each side and astern of any LHG tank vessel that is underway either on the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining in these zones is prohibited unless authorized by the Coast Guard Captain of the Port Los Angeles-Long Beach, or his or her designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number (800) 221-USCG (8724) or on VHF-FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(3) When any LHG tank vessels approach within 500 yards of a vessel

that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the LHG tank vessel's security zone unless it is either ordered by or given permission from the Captain of the Port Los Angeles-Long Beach to do otherwise.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of these security zones by the Los Angeles Port Police and the Long Beach Police Department.

Dated: February 18, 2003.

John M. Holmes,

Captain, Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 03–6632 Filed 3–18–03; 8:45 am]

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

[COTP Los Angeles–Long Beach 03–001]

RIN 1625–AA00

Safety Zone; Red Baron Squadron Aerobatic Flight Demonstration, Long Beach, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of Long Beach, California for the Red Baron Squadron aerobatic flight demonstration on April 12 and 13, 2003. This temporary safety zone is necessary to provide for public safety in order to protect life and prevent property damage beneath the aerobatic flight demonstration. Persons and vessels are prohibited from entering into or transiting through this safety zone unless authorized by the Captain of the Port, Los Angeles-Long Beach.

DATES: This rule is effective from 10 a.m. to 12 p.m. (p.d.t.) on April 12 and 13, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (COTP Los Angeles-Long Beach 03–001) and are available for inspection or copying at U.S. Coast Guard Marine Safety Office/ Group Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Rob Griffiths, Assistant Chief of Waterways Management Division, at (310) 732–2020.

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. Final dates and other logistical details for the event were not provided to the Coast Guard in time to draft and publish an NPRM prior to the event, as the event would occur before the rulemaking process was complete. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to provide a safety zone to ensure the safety of the spectators and other vessels in the area.

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** due to additional administrative review within the Coast Guard's Department of Homeland Security following the Coast Guard's recent shift to DHS. Withholding the implementation of the safety zone is impractical and contrary to the public interest as the dates of the flight demonstration will have past.

Background and Purpose

At the request of the Federal Aviation Administration (FAA) Flight Standards District Office in Long Beach, California, the Coast Guard is establishing a temporary safety zone in the navigable waters of Long Beach, California for the Red Baron Squadron aerobatic flight demonstration on April 12 and 13, 2003. One these dates, Red Baron Squadron is scheduled to perform a 15-minute aerobatic flight demonstration. This flight demonstration team consists of a three ship formation, performing aerobatic flight maneuvers in close proximity to each other, over Long Beach harbor between the hours of 10 a.m. and 12 p.m. (P.d.t.) both days in conjunction with the Grand Prix of Long Beach.

At the request of the FAA, the Coast Guard will close the waterway to all vessels and persons 30 minutes prior to the start of the aerobatic flight demonstration and will reopen the waterway approximately 30 minutes after the conclusion of the aerobatic flight demonstration if the Patrol Commander determines that it is safe to do so. A broadcast notice to mariners will be issued for this event.