

## Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might 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, because it would 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 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.

## 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.

## Environment

We have considered the environmental impact of this proposed 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 this rule establishes a security zone. A "Categorical Exclusion Determination" is available in the docket 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 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; Department of Homeland Security Delegation No. 0170.

2. Revise § 165.502 to read as follows:

### § 165.502 Safety and Security Zone; Cove Point Liquefied Natural Gas Terminal, Chesapeake Bay, Maryland.

(a) **Location.** The following area is a safety and security zone: All waters of the Chesapeake Bay, from surface to bottom, encompassed by lines connecting the following points, beginning at 38°24'27" N, 076°23'42" W, thence to 38°24'44" N, 076°23'11" W, thence to 38°23'55" N, 076°22'27" W, thence to 38°23'37" N, 076°22'58" W, thence to beginning at 38°24'27" N, 076°23'42" W. These coordinates are based upon North American Datum (NAD) 1983. This area is 500 yards in all directions from the Cove Point LNG terminal structure.

#### (b) *Regulations*

(1) In accordance with the general regulations in § 165.23 and § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Baltimore, Maryland or his designated representative. Designated representatives include any Coast Guard commissioned, warrant, or petty officer.

(2) Persons desiring to transit the area of the zone may contact the Captain of the Port at telephone number (410) 576-2693 or via VHF Marine Band Radio channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(c) **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.

(d) **Enforcement.** The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, local, and private agencies.

Dated: February 26, 2003.

**Roger B. Peoples,**

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-03-008]

RIN 1625-AA00

### Safety and Security Zones; Chesapeake Bay, Maryland and Tributaries

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing moving and fixed safety/security zones on the waters of the Chesapeake Bay and its tributaries for cruise ships and vessels carrying Certain Dangerous Cargo (CDC), Liquefied Natural Gas (LNG), or Liquefied Hazardous Gas (LHG) in the Captain of the Port (COTP) Baltimore zone. These zones are necessary to provide for the safety and security of these vessels in response to potential terrorist acts. This rule is necessary to enhance the public and maritime safety and security by requiring vessel traffic to maintain a safe distance from these vessels while they are transiting, anchored, or moored in the COTP Baltimore zone.

**DATES:** Comments and related material must reach the Coast Guard on or before April 21, 2003.

**ADDRESSES:** You may mail comments and related material to Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Building 70, Port Safety, Security and Waterways Management Branch, Baltimore, Maryland, 21226-1791. The Port Safety, Security and Waterways Management Branch of Coast Guard Activities Baltimore 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 Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Building 70, Port Safety, Security and Waterways Management Branch, Baltimore, Maryland, 21226-1791, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Dulani Woods, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576-2513.

#### 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 [CGD05-03-008], 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 submission 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 Commander, U.S. Coast Guard Activities Baltimore 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 separate notice in the **Federal Register**.

## Background and Purpose

In light of the terrorist attacks on the World Trade Center buildings in New York, NY and the Pentagon in Arlington, VA on September 11, 2001, safety and security zones are being established to safeguard certain types of vessels and the public 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 these vessels. These safety and security zones prohibit entry into or movement within the specified areas.

This rule proposes to establish safety and security zones around cruise ships and vessels carrying CDC, LNG, or LHG while underway, anchored, or moored in the waters of the Chesapeake Bay and its tributaries. This rule creates safety and security zones within navigable waters of the United States in the COTP Baltimore zone, as defined in 33 CFR 3.25-15. While the COTP anticipates some impact on vessel traffic due to this regulation, these safety and security zones are deemed necessary for the protection of life, property, and the safety and security of navigation within the COTP Baltimore zone.

## Discussion of Proposed Rule

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures in 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 Espionage Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) ("Magnuson Act"), section 104 of the Maritime Transportation Security Act of November 25, 2002, and by implementing regulations promulgated by the President in 33 CFR 6.01 and 6.04.

In this particular rulemaking, to address the aforementioned security concerns and take steps to prevent the catastrophic impacts that a terrorist attack against cruise ships and vessels carrying CDC, LNG, or LHG would have on the public interest, the Coast Guard proposes establishing safety and security zones around and under these vessels while transiting, anchored, or moored within the COTP Baltimore zone. These safety and security zones will help the Coast Guard prevent other vessels or persons from engaging in terrorist actions against these vessels. The Coast Guard believes the establishment of safety and security zones is prudent for the following reasons:

(1) *Cruise Ships.* These are vessels of at least 100 gross tons defined as "passenger vessel" in 46 U.S.C. 2101 (22) that typically carry 500 or more passengers. The establishment of safety and security zones will increase the protection afforded these vessels.

(2) *Vessels Carrying CDC.* Under 33 CFR 160 these cargoes include division 1.1 and 1.2 explosives, permitted oxidizing material or blasting agents, highway route controlled or fissile radioactive material, poisonous gases, and other toxic or volatile materials. By the nature of these materials, an explosion or release of this type of cargo could have serious impact on the general public.

(3) *LHG and LNG Vessels.* LHG and LNG vessels carry highly toxic and/or flammable gases in large quantities as cargo. By the nature of these materials, a release of this type of cargo could have a serious impact on the general public.

The proposed safety and security zones surrounding each type of vessel will control the movement of persons and other vessels from the surface to the bottom in a 500 yard radius. All vessels and persons will be prohibited from entering the zone without permission from the COTP Baltimore or his or her designated representative. The COTP shall notify the general public by marine information broadcast of the activation of these zones. Federal, State, local, and private agencies may assist the Coast Guard in the enforcement of this rule.

## 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the limited size of the zones, the minimal time that vessels will be restricted from the zones, and vessels may transit around the zones. In addition, vessels that may need to enter the zones may request permission on a case by case basis from the COTP Baltimore or his designated representatives.

## 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.

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 proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit in a portion of the Chesapeake Bay and its tributaries near a vessel encompassed by the safety and security zones.

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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Dulani Woods, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576-2513.

#### 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.

#### 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 proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not affect 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

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might 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, because it would 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 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.

#### 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.

#### Environment

We have considered the environmental impact of this proposed 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 because this rule establishes a safety and security zone. A "Categorical Exclusion

Determination" is available in the docket 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 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 § 165.500 to read as follows:

##### § 165.500 Safety and Security Zones; Chesapeake Bay, Maryland.

(a) **Definitions.** (1) Certain Dangerous Cargo (CDC) means a material defined in 33 CFR part 160.

(2) Liquefied Hazardous Gas (LHG) means a material defined in 33 CFR part 127.

(3) Liquefied Natural Gas (LNG) means a material defined in 33 CFR part 127.

(4) Cruise ship means a vessel defined as a "passenger vessel" in 46 U.S.C. 2101 (22).

(b) **Location.** The following areas are safety and security zones: All waters of the Chesapeake Bay and its tributaries, from surface to bottom, within a 500 yard radius around cruise ships and vessels transporting CDC, LNG, or LHG while transiting, anchored, or moored within the COTP Baltimore zone.

(c) **Regulations.** (1) The COTP will notify the maritime community of periods during which the safety and security zones will be enforced by providing notice in accordance with 33 CFR 165.7.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard COTP, Baltimore, Maryland or his designated representative.

(3) Persons desiring to transit the area of the security zone may contact the COTP at telephone number 410-576-2693 or on VHF channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his or her designated representative.

(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.

Dated: February 26, 2003.

**Evan Q. Kahler,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.*

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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2002-4B]

### Notice of Public Hearings: Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of public hearings.

**SUMMARY:** The Copyright Office of the Library of Congress will be holding public hearings on the possible exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works. In accordance with the Copyright Act, as amended by the Digital Millennium Copyright Act, the Office is conducting its triennial rulemaking proceeding to determine whether there are particular "classes of works" as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses if they are prohibited from circumventing such technological measures.

**DATES:** Public hearings will be held in Washington, DC on Friday, April 11, 2003, Tuesday, April 15, 2003, Wednesday, April 30, 2003 and Friday, May 2, 2003, beginning at 9:30 a.m. Public hearings will also be held in California in May at a time and location to be announced later. Requests to testify must be received by 5 p.m. E.S.T. on April 1, 2003. See **SUPPLEMENTARY INFORMATION** for additional information on other requirements.

**ADDRESSES:** The Washington, DC round of public hearings will be held as follows: April 11 in the Mumford, Room, LM-649, of the James Madison Building of the Library of Congress, 101 Independence Ave, SE., Washington, DC. April 15 in the West Dining Room, LM-621, of the James Madison Memorial Building of the Library of Congress, 101 Independence Ave, SE., Washington, DC. April 30 and May 2 at the Postal Rate Commission, 1333 H Street, NW., Third Floor, Washington, DC. Additional public hearings will be held in California at a time and location

to be subsequently announced. See **SUPPLEMENTARY INFORMATION** for additional address information and other requirements.

**FOR FURTHER INFORMATION CONTACT:** Rob Kasunic, Senior Attorney, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707-8380; fax (202) 707-8366. Requests to testify must be sent by email to [1201@loc.gov](mailto:1201@loc.gov). Email inquiries regarding the hearings may be sent to [rkas@loc.gov](mailto:rkas@loc.gov).

**SUPPLEMENTARY INFORMATION:** On October 15, 2002, the Copyright Office published a Notice of Inquiry seeking comments in connection with a rulemaking pursuant to section 1201(a)(1) of the Copyright Act, 17 U.S.C. 1201(a)(1), which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumventing a technological measure that controls access to a copyrighted work. 67 FR 63578 (October 15, 2002). For a more complete statement of the background and purpose of the rulemaking, please see the Notice of Inquiry and the full record of the previous rulemaking proceeding available on the Copyright Office's Web site at: <http://www.copyright.gov/1201/>.

The 51 written comments proposing classes of works to be exempted and the 338 reply comments have been posted on the Office's Web site; see <http://www.copyright.gov/1201/>.

The Office will be conducting public hearings in Washington, DC in April and May and in California in May to hear testimony relating to the rulemaking. Interested parties are invited to submit requests to testify at one of these hearings. The dates for the hearings in Washington, DC are April 11, 15 and 30, and May 2. Depending on the number of requests to testify that we receive, it may not be necessary to conduct hearings on all four of these days. The date or dates for the hearings in California will be announced later.

#### *Requirements for persons desiring to testify:*

A request to testify must be submitted to the Copyright Office. All requests to testify must clearly identify:

- The name of the person desiring to testify,
- The organization or organizations represented, if any,
- Contact information (address, telephone, and email),
- The class of work to which your testimony is responsive (if you wish to testify on more than one proposed class

of work, please state your order of preference),

- A brief summary of your proposed testimony,
- A description of any audiovisual material or demonstrative evidence, if any, that you intend to present,
- The location of the hearing at which you wish to testify (Washington, DC or California).
- Preferences as to dates on which you wish to testify. Note: Because the agenda will be organized based on subject matter, we cannot guarantee that we can accommodate requests to testify on particular dates.

All persons who submit a timely request to testify will receive confirmation by email or telephone by April 4. The Copyright Office will notify all witnesses of the date and expected time of their appearance, and the time allocated for their testimony.

#### *Addresses for requests to testify:*

All requests to testify must be sent by email to [1201@loc.gov](mailto:1201@loc.gov) and must be received by 5 E.S.T. on April 1, 2003. Persons who are unable to send requests by email should contact Rob Kasunic, Senior Attorney, at (202) 707-8380 to make alternative arrangements for submission of their requests to testify.

#### *Form and limits on testimony at public hearings:*

There will be time limits on the testimony allowed for persons testifying that will be established after receiving all requests to testify. In the written comment period, the Office received nearly 400 written comments. Given the time constraints, only a fraction of that number could possibly testify at the hearings. A timely request to testify does not guarantee an opportunity to testify at these hearings. The Copyright Office encourages parties with similar interests to select common representatives to testify on behalf of a particular position.

The Copyright Office stresses that factual arguments are at least as important as legal arguments and encourages persons who wish to testify to provide demonstrative evidence to supplement their testimony. While testimony from attorneys who can articulate legal arguments in support of or opposition to a proposed exempted class of works is useful, testimony from witnesses who can explain and demonstrate the facts is also solicited.

An LCD projector and screen will be available in the hearing rooms. An overhead projector may be made available if arrangements are requested in advance. Other electronic or audiovisual equipment necessary for a presentation should be brought by the person testifying. Persons intending to