

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-01-214]

RIN 2115-AA97

Safety and Security Zones; Liquid Natural Gas Carrier Transits and Anchorage Operations, Boston, Marine Inspection Zone and Captain of the Port Zone**AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety and security zones for Liquid Natural Gas Carrier (LNGC) vessels within the Boston Marine Inspection Zone and Captain of the Port Zone. These safety and security zones will temporarily close all waters within a 500-yard radius of all LNGC vessels anchored in Broad Sound and while moored at the DISTRIGAS waterfront facility in the Mystic River, Everett Massachusetts. These safety and security zones also temporarily close all navigable waters and internal waters of the United States within the Boston Marine Inspection Zone and Captain of the Port Zone, two miles ahead and one mile astern, and 1000-yards on each side of any LNGC vessel anytime a vessel is within the internal waters of the United States and out to 12 nautical miles. Entry into or movement within these zones is prohibited without prior authorization from the Captain of the Port. These zones are needed to safeguard the LNGC vessels, 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 a large tank vessel.

DATES: This rule is effective from 12:01 a.m. November 13, 2001, until 11:59 p.m. June 15, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Michael Popovich, Marine Safety Office Boston, Waterways Safety & Response Division, at (617) 223-3000.

SUPPLEMENTARY INFORMATION:**Regulatory History**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553, the Coast Guard finds that good cause exists for not publishing an NPRM. 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 against civilian targets may be anticipated. Due to the flammable nature of the Liquid Natural Gas Carrier (LNGC) vessel cargo, this rulemaking is urgently required to prevent possible terrorist strikes against LNGC vessels within and adjacent to waters within the Boston Marine Inspection Zone and Captain of the Port Zone. The delay inherent in the NPRM process is contrary to the public interest insofar as it would render LNGC vessels transiting the port of Boston vulnerable to subversive activity, sabotage or terrorist attack, and immediate action is necessary to protect persons, vessels and others in the maritime community from the hazards associated with the transit and limited maneuverability of a large tank vessel.

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 measures contemplated by the rule are intended to prevent possible terrorist attacks against LNGC vessels, and to protect other vessels, waterfront facilities, the public and the port of Boston from potential sabotage or other subversive acts, accidents or other causes of a similar nature. In addition, the zones protect persons, vessels and others in the maritime community from the hazards associated with the transit and limited maneuverability of a large tank vessel. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest. These zones should have minimal impact on the users of the Boston Marine Inspection Zone and Captain of the Port Zone, Boston Harbor and Broad Sound as LNGC vessel transits are infrequent, vessels have ample water to transit around the zones while at anchor in Broad Sound, the zones established while the vessel is transiting are moving safety and security zones, allowing vessels to transit ahead, behind or after passage of an LNGC

vessel, and public notifications will be made prior to an LNGC transit via local notice to mariners and marine information broadcasts.

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 LNGC vessels, 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 large tank vessel. These safety and security zones prohibit entry into or movement within the specified areas.

This rulemaking establishes safety and security zones in a radius around LNGC vessels while the vessels are anchored in Broad Sound, and while moored at the DISTRIGAS waterfront facility. It also creates a moving safety zone any time an LNGC vessel is within Boston Marine Inspection Zone and Captain of the Port Zone, as defined in 33 CFR 3.05-10, in the internal waters of the United States and the navigable waters of the United States. Under the Ports and Waterways Safety Act (PWSA), navigable waters of the United States includes 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 baselines of the United States determined in accordance with international law. This regulation establishes safety and security zones with identical boundaries covering the following areas of the Boston Marine Inspection Zone and Captain of the Port Zone: (1) 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; all waters within a 500-yard radius of any anchored Liquid Natural Gas Carrier; (2) all waters within a 500-yard radius of any LNGC vessel moored at the DISTRIGAS Facility, in Everett, Massachusetts; (3) Except as provided in sections (1) and (2) above, in the internal waters of the United States and the navigable waters of the United States, as defined by 33 U.S.C. 1222(5), that are within the Boston Marine Inspection Zone and Captain of the Port

Zone, as defined in 33 CFR 3.05–10, two miles ahead and one mile astern, and 1000-yards on each side of any LNGC vessel.

This rulemaking also temporarily suspends a safety zone for liquefied natural gas tank vessel (LNG) transits into Boston Harbor, located at 33 CFR 165.110(a). 33 CFR 165.110 establishes a safety zone bounded by the limits of the Boston Main Ship Channel and extending two miles ahead and one mile astern of a loaded LNG vessel transiting the Boston North Channel and Boston Harbor. That safety zone ends when the vessel reaches the Distrigas waterfront facility in the Mystic River, Everett, Massachusetts. Section 165.110 also establishes a safety zone extending 150-feet around a loaded LNG vessel while the vessel is alongside the Distrigas facility, and the vessel remains in a loaded condition or is transferring liquefied natural gas. Section 165.110 recognizes the safety concerns with transits of large tank 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 would have on the port of Boston and surrounding areas, increased protection of these vessels is necessary. In comparison to 33 CFR 165.110, this rulemaking provides increased protection for LNGC vessels as follows: It establishes safety and security zones around LNGC vessels anchored in Broad Sound; it increases protection for LNGC vessels moored at the Distrigas facility from 150-feet to 500-yards around a vessel; and it provides continuous protection for LNGC vessels 2 miles ahead, 1 mile astern, and 1000-yards on each side of LNGC vessels anytime a vessel is within the internal waters of the United States and out to 12 nautical miles, seaward from the baselines of the United States, as determined by international law, within the Boston Marine Inspection Zone and Captain of the Port Zone, rather than limiting this protection to the limits of the Boston Main Ship Channel while a vessel is transiting Boston Harbor and Boston North Channel. The increased protection provided in this 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 rulemaking establishes safety and security zones

around any LNGC vessels, loaded or unloaded, while anchored in Broad Sound, moored at the Distrigas facility, 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 provide necessary protection to unloaded vessels, which continue to pose a safety/security hazard. This 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 large tank vessel.

No person or vessel may enter or remain in the prescribed 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 shall obey any direction or order of the Captain of the Port. The Captain of the Port may 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 may 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. These regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 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 \$100,000), in rem liability against the offending vessel, and license sanctions.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The effect of this regulation will not be significant for several reasons: the minimal time that vessels will be

restricted from the areas, there is ample room for vessels to navigate around the zones in Broad Sound and, in most portions of the navigable waters of the United States, vessels can transit ahead, behind, and after passage of LNGC vessels, and advance notifications will be made to the local maritime community by marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Broad Sound or Boston Harbor. For the reasons enumerated in the Regulatory Evaluation section above, these safety and security zones will 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 (Pub. L. 104–121), we want to assist small entities in understanding this 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 Chief Petty Officer Michael Popovich, telephone (617) 223–3000. 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 comments on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This 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 rule under Executive Order 13132 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 rule would not impose an unfunded mandate.

Taking of Private Property

This 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 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 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 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.

Environment

The Coast Guard considered the environmental impact of this 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 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, 160.5; 49 CFR 1.46.

2. From 12:01 a.m. November 13, 2001 until 11:59 p.m. June 15, 2002, suspend § 165.110.

3. From 12:01 a.m. November 13, 2001 until 11:59 p.m. June 15, 2002 temporarily add § 165.T01–214 to read as follows:

§ 165.T01–214 Safety and Security Zone: Liquid Natural Gas Carrier Transits and Anchorage Operations, Boston, Massachusetts.

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

(1) 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; all waters within a 500-yard radius of

any anchored Liquid Natural Gas Carrier (LNGC) vessel;

(2) All waters of the Mystic River within a 500-yard radius of any LNGC vessel moored at the Distrigas Facility, Everett, Massachusetts;

(3) Except as provided in paragraphs (1) and (2) of this section, in the internal waters of the United States and the navigable waters of the United States, as defined by 33 U.S.C. 1222(5), that are within the Boston Marine Inspection Zone and Captain of the Port Zone, as defined in 33 CFR 3.05–10, two miles ahead and one mile astern, and 1000-yards on each side of any LNGC vessel.

(b) *Effective period.* This section is effective from 12:01 a.m. November 13, 2001, until 11:59 p.m. June 15, 2001.

(c) 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 Captain of the Port, Boston.

(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.

(3) No person may enter the waters within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Boston or his authorized patrol representative.

Dated: November 13, 2001.

B. M. Salerno,

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

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 253

[Docket No. 2001–9 CARP]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress announces a cost of living adjustment of 2.1% in the royalty rates paid by colleges, universities, or