

(2) From December 1 through March 31, the draws shall open on signal if at least 48 hours notice is given. However, the bridges need not open Monday through Friday from 7 a.m. to 9:30 a.m., and 4 p.m. to 6:30 p.m., except for Federal holidays.

(c) The following bridges need not be opened for the passage of vessels: The draws of South Damen Avenue, mile 6.14, over South Branch of Chicago River; all highway drawbridges between South Western Avenue, mile 6.7, and Willow Springs Road, mile 19.4, over Chicago Sanitary and Ship Canal; North Halsted Street, mile 2.85, and Division Street, mile 2.99, over North Branch Canal of Chicago River; and Division Street, mile 3.30, North Avenue, mile 3.81, Cortland Avenue, mile 4.48, Webster Avenue, mile 4.85, North Ashland Avenue, mile 4.90, and Union Pacific Railroad, mile 5.01, over North Branch of Chicago River.

Dated: April 29, 2002.

**James D. Hull,**

*Rear Admiral, Coast Guard, Commander,  
Ninth Coast Guard District.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD07-01-037]

RIN 2115-AE84

#### Regulated Navigation Area; Savannah River, Georgia

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary Regulated Navigation Area (RNA) on a portion of the Savannah River to regulate waterway traffic when vessels carrying Liquefied Natural Gas (LNG) are transiting or moored on the Savannah River. This action is necessary because of the size, draft, and volatile cargo of LNG tankships. This rule enhances public and maritime safety by minimizing the risk of collision, allision or grounding and the possible release of LNG.

**DATES:** This rule is effective from 12:01 a.m. on May 4, 2002 until 11:59 p.m. on June 30, 2002.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office Savannah, Juliette Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah,

Georgia 31401. Coast Guard Marine Safety Office Savannah 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 [CGD07-01-037], will become part of this docket and will be available for inspection or copying at Marine Safety Office Savannah, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander James Hanzalik at the Marine Safety Office Savannah; phone (912) 652-4353 extension 205.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On June 19, 2001 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled "Regulated Navigation Area; Savannah River, Georgia" (66 FR 32915). The Coast Guard received 22 letters commenting on the proposed rule. No public hearing was requested, and none was held.

Since immediate action was necessary to protect the public from the dangers associated with transporting LNG, on October 10, 2001, we published a temporary final rule in the **Federal Register** entitled "Regulated Navigation Area; Savannah River, Georgia" (66 FR 51562) creating a temporary rule while we published a Supplemental Notice of Proposed Rulemaking (SNPRM) and received comments.

Due in part to the comments we received and changes to the initial NPRM, on December 14, 2001, we published a SNPRM in the **Federal Register** entitled "Regulated Navigation Area; Savannah River, Georgia" (66 FR 64778), offering the public the opportunity to comment on our revised proposal. The Coast Guard received three letters commenting on the supplemental proposed rule. No public hearing was requested, and none was held.

Because the original temporary rule has expired, the Coast Guard is issuing this temporary final rule to respond to the dangers associated with Liquefied Natural Gas (LNG) vessels while comments to the SNPRM are considered and the final rule is being prepared.

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 a NPRM because the terms in this temporary final rule have already been published for notice and comment in the **Federal Register** in the

SNRPM (66 FR 64778) and previous temporary final rule (66 FR 51562) and publishing an additional NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States from the dangers associated with the transportation of LNG.

For the reasons cited in the summary, 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**.

#### Background and Purpose

Since early October 2001, the port of Savannah has received LNG tankships at the Southern LNG Elba Island facility. Due to the expiration of the original temporary final rule on March 31, 2002, this new temporary final rule is necessary to protect the safety of life and property on the navigable waters from hazards associated with LNG activities.

The Savannah River has a narrow and restricted channel with many bends. The LNG facility is located at one of these bends on Elba Island. The LNG tankship berth is located adjacent to and parallel with the toe of the shipping channel. Because of these factors, the hazardous nature of LNG and the substantial volume of deep draft vessel traffic in Savannah (approximately 5000 annual transits), the risk of collision or allision involving an LNG tankship must be addressed.

The Elba Island LNG facility has been struck by passing vessels twice in the past 20 years. In both instances the facility was inactive, however, damage to both the facility and vessels was extensive. The potential consequences from this type of allision would be significantly more severe with an LNG tankship moored at the Elba Island dock. This temporary final rule is needed to prevent incidents involving a LNG tankship in transit or while moored at the facility.

#### Discussion of Comments and Changes

The Coast Guard received twenty-two comment letters addressing the original notice of proposed rulemaking. These comments and our responses can be found in the SNRPM in the **Federal Register** (66 FR 64778) and the previous temporary final rule (66 FR 51562). The Coast Guard incorporated some of the comments and made content changes and other administrative and numbering corrections in the SNPRM published on December 14, 2001.

## 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Only an estimated one percent of the annual transits on the Savannah River will be LNG tankships. Further, all LNG transits will be coordinated and scheduled with the pilots and the Coast Guard Captain of the Port to minimize port disruption and delays for other commercial traffic, and LNG tankships. Finally, requests to enter the RNA may be granted on a case-by-case basis by the Coast Guard Captain of the Port.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this temporary 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 temporary rule will not have a significant economic impact on a substantial number of small entities because LNG vessels will comprise an estimated one percent of the large commercial vessel transits on the Savannah River. Further, the tug escort requirements of this rule for vessels transiting past a moored LNG vessel will only affect an estimated 12 percent of all large commercial vessel transits on the River. Delays, if any, will be minimal because vessel speeds would be reduced regardless of tug requirements. Delays for inbound and outbound traffic due to LNG transits will be minimized through pre-transit conferences with the pilots and the Coast Guard Captain of the Port. Finally, the RNA requirements are less burdensome for smaller vessels, which are more likely to be small entities, because of the lower risk associated with these vessels.

## 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 this temporary rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. Small businesses may also 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.

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

## 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

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 might disproportionately affect children.

## 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.

## 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.

## Environment

We considered the environmental impact of this 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. 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 is amending 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. Temporary § 165.T07–037 is added to read as follows:

### § 165.T07–037 Regulated Navigation Area; Savannah River, Georgia.

(a) *Regulated navigation area (RNA).* The Savannah River between Fort Jackson (32°04.93' N, 081°02.19' W) and the Savannah River Channel Entrance Sea Buoy is a regulated navigation area.

(b) *Definitions.* The following definitions are used in this section:

*Bollard pull* is an industry standard used for rating tug capabilities and is the pulling force imparted by the tug to the towline. It means the power that an escort tug can apply to its working line(s) when operating in a direct mode.

*Direct mode* is a towing technique which, for the purpose of this section, is defined as a method of operation by which a towing vessel generates by thrust alone; towline forces at an angle equal to or nearly equal to the towline, or thrust forces applied directly to the escorted vessel's hull.

*Indirect mode* is a towing technique which, for the purpose of this section, is defined as a method of operation by which an escorting towing vessel generates towline forces by a combination of thrust and hydrodynamic forces resulting from a presentation of the underwater body of the towing vessel at an oblique angle to the towline. This method increases the resultant bollard pull, thereby arresting and/or controlling the motion of an escorted vessel.

*LNG tankship* means a vessel as described in Title 46, Code of Federal Regulations, part 154.

*Made-up* means physically attached by cable, towline, or other secure means in such a way as to be immediately ready to exert force on a vessel being escorted.

*Make-up* means the act of, or preparations for becoming made-up.

*Operator* means the person who owns, operates, or is responsible for the operation of a facility or vessel.

*Savannah River Channel Entrance Sea Buoy* means the aid to navigation labeled R W "T" Mo (A) WHIS on the National Oceanic and Atmospheric Administration's (NOAA) Nautical Chart 11512.

*Standby* means immediately available, ready, and equipped to conduct operations.

*Underway* means that a vessel is not at anchor, made fast to the shore, or aground.

(c) *Applicability.* This section applies to all vessels operating within the RNA, including naval and other public vessels, except vessels that are engaged in the following operations:

- (1) Law enforcement or search and rescue operations;
- (2) Servicing aids to navigation;
- (3) Surveying, maintenance, or improvement of waters in the RNA; or
- (4) Actively engaged in escort, maneuvering or support duties for the LNG tankship.

(d) *Regulations.* (1) Restrictions on vessel operations while a LNG tankship is underway within the RNA.

(i) Except for a vessel that is moored at a marina, wharf, or pier, and remains moored, no vessel 1600 gross tons or greater is permitted within the RNA without the permission of the Captain of the Port (COTP).

(ii) All vessels under 1600 gross tons shall keep clear of transiting LNG tankships.

(iii) The owner, master, or operator of a vessel carrying liquefied natural gas (LNG) shall:

(A) Comply with the notice requirements of 33 CFR part 160. Updates are encouraged at least 12 hours before arrival at the RNA boundaries. The COTP may delay the vessel's entry into the RNA to accommodate other commercial traffic. LNG tankships are further encouraged to include in their notice a report of the vessel's propulsion and machinery status and any outstanding recommendations or deficiencies identified by the vessel's classification society and, for foreign flag vessels, any outstanding deficiencies identified by the vessel's flag state.

(B) Obtain permission from the COTP before commencing the transit into the RNA.

(C) While transiting, make security broadcasts every 15 minutes as recommended by the U.S. Coast Pilot 4 Atlantic Coast. The person directing the vessel must also notify the COTP telephonically or by radio on channel 13 or 16 when the vessel is at the following locations: Sea Buoy, Savannah Jetties, and Fields Cut.

(D) Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel, and/or wind speed is, or is expected to be, greater than 25 knots.

(E) While transiting the RNA, the LNG tankship shall have sufficient towing vessel escorts.

(2) Requirements for LNG facilities:

(i) The operator of a facility where a LNG tankship is moored shall station

and provide a minimum of two escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode, to escort transiting vessels 1600 gross tons or greater past the moored LNG tankship.

(ii) In addition to the two towing vessels required by paragraph (d)(2)(i) of this section, the operator of the facility where the LNG tankship is moored shall provide at least one standby towing vessel of sufficient capacity to take appropriate actions in an emergency as directed by the LNG vessel bridge watch.

(3) Requirements for vessel operations while a LNG tankship is moored:

(i) While moored within the RNA, LNG tankships shall maintain a bridge watch of appropriate personnel to monitor vessels passing under escort and to coordinate the actions of the standby towing vessel required in paragraph (d)(2)(ii) of this section in the event of emergency.

(ii) Transiting vessels 1600 gross tons or greater, when passing a moored LNG tankship, shall have a minimum of two towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, made-up in such a way as to be immediately available to arrest and/or control the motion of an escorted vessel in the event of steering, propulsion or other casualty. While it is anticipated that vessels will utilize the facility provided towing vessel services required in paragraph (d)(2)(i) of this section, this regulation does not preclude escorted vessel operators from providing their own towing vessel escorts, provided they meet the requirements of this part.

(A) Outbound vessels shall be made-up and escorted from Bight Channel Light 46 until the vessel is safely past the LNG dock.

(B) Inbound vessels shall be made-up and escorted from Elba Island Light 37 until the vessel is safely past the LNG dock.

(iii) All vessels of less than 1600 gross tons shall not approach within 70 yards of a LNG tankship.

(e) *LNG Schedule.* The Captain of the Port will issue a Broadcast Notice to Mariners to inform the marine community of scheduled LNG tankship activities during which the restrictions imposed by this section are in effect.

(f) *Waivers.*

(1) The COTP may waive any requirement in this section, if the COTP finds that it is in the best interest of safety or in the interest of national security.

(2) An application for a waiver of these requirements must state the compelling need for the waiver and describe the proposed operation and methods by which adequate levels of safety are to be obtained.

(g) *Enforcement.* Violations of this RNA should be reported to the Captain of the Port, Savannah, at (912) 652-4353. In accordance with the general regulations in § 165.13 of this part, no person may cause or authorize the operation of a vessel in the regulated navigation area contrary to the regulations.

Dated: May 2, 2002.

**James S. Carmichael,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

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**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WV 060-6019a; FRL-7208-4]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Nitrogen Oxides Budget Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the West Virginia State Implementation Plan (SIP). The revision was submitted in response to EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." The revision establishes and requires a nitrogen oxides (NO<sub>x</sub>) allowance trading program for large electric generating and industrial units, beginning in 2004, as well as requirements for reductions in NO<sub>x</sub> emissions from cement manufacturing kilns. The intended effect of this action is to approve West Virginia's NO<sub>x</sub> Budget Trading Program because it addresses the requirements of the NO<sub>x</sub> SIP Call. On December 26, 2000, EPA made a finding that West Virginia had failed to submit a SIP in response to the NO<sub>x</sub> SIP Call, thus starting the 18 and 24 month clocks, respectively, for the mandatory imposition of sanctions and the obligation for EPA to promulgate a Federal Implementation Plan (FIP). On May 1, 2002, West Virginia submitted,

as a SIP revision, its NO<sub>x</sub> Budget Trading Program in response to the NO<sub>x</sub> SIP Call. EPA found that SIP submission complete on May 1, 2002, thereby halting the sanctions clocks. Upon approval of this SIP revision, both the sanctions clocks and EPA's FIP obligation are terminated. EPA is approving this revision in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on July 9, 2002 without further notice, unless EPA receives adverse written comment by June 10, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, S.E., Charleston, WV 25304-2943.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814-2178, or by e-mail at [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov). Please note any comments on this rule must be submitted in writing, as provided in the **ADDRESSES** section of this document.

**SUPPLEMENTARY INFORMATION:** On May 1, 2002, the West Virginia Department of Environmental Protection submitted a revision to its SIP to address the requirements of the NO<sub>x</sub> SIP Call. The revision consists of the adoption of Rule 45CSR26—Nitrogen Oxides Budget Trading Program as Means of Control and Reduction of Nitrogen Oxides from Electric Generating Units and Rule 45CSR1—Nitrogen Oxides Budget Trading Program as Means of Control and Reduction of Nitrogen Oxides. The information in this section of this document is organized as follows:

#### I. EPA's Action

- A. What Action Is EPA Taking In This Final Rulemaking?
- B. What Are the General NO<sub>x</sub> SIP Call Requirements?
- C. What Is EPA's NO<sub>x</sub> Budget Trading Program?
- D. What Standards Did EPA Use to Evaluate West Virginia's Submittal?

#### II. West Virginia's NO<sub>x</sub> Budget Trading Program

A. When Did West Virginia Submit the SIP Revision to EPA in Response to the NO<sub>x</sub> SIP Call?

B. What Is West Virginia's NO<sub>x</sub> Budget Program?

C. What Is the Result of EPA's Evaluation of West Virginia's Program?

#### III. Final Action

#### IV. Administrative Requirements

#### I. EPA's Action

##### A. What Action Is EPA Taking in This Final Rulemaking?

EPA is taking direct final action to approve the West Virginia NO<sub>x</sub> Budget Trading Program submitted as a SIP revision on May 1, 2002. Upon approval of this SIP revision, both the sanctions clocks and EPA's FIP obligation are terminated.

##### B. What Are the General NO<sub>x</sub> SIP Call Requirements?

On October 27, 1998 (63 FR 57356), EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." The NO<sub>x</sub> SIP Call requires the District of Columbia and 22 States, including West Virginia, to meet statewide NO<sub>x</sub> emission budgets during the five-month period from May 1 through September 30. By meeting these budgets the states will reduce the amount of ground level ozone that is transported across the eastern United States. EPA has previously determined state-wide NO<sub>x</sub> emission budgets for each affected jurisdiction to be met by the year 2007. EPA identified NO<sub>x</sub> emission reductions, by source category, that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs), non-electric generating units (non-EGUs), area sources, nonroad mobile sources and highway sources. However, the NO<sub>x</sub> SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO<sub>x</sub> SIP Call rule's preamble, EPA suggested that imposing statewide NO<sub>x</sub> emissions caps on large fossil-fuel fired industrial boilers and electricity generating units would provide a highly cost effective means for States to meet their NO<sub>x</sub> budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO<sub>x</sub> per million British thermal units (lbs NO<sub>x</sub>/MMBtu) at EGUs,