

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event area.

(d) *Effective period.* This section will be enforced from 7 a.m. to 3:30 p.m. on September 21, 2008.

Dated: September 15, 2008.

**Fred M. Rosa, Jr.,**

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

[FR Doc. E8-22429 Filed 9-23-08; 8:45 am]

**BILLING CODE 4910-15-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG-2007-0075]

**RIN 1625-AA00**

#### **Safety Zone: Port of Ponce, Puerto Rico**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has established both moving and fixed safety zones around all vessels carrying Liquefied Natural Gas (LNG) cargo in the waters of the Caribbean Sea and Bahia de Ponce, Puerto Rico. This rule is necessary to protect the public by minimizing the chance of collisions of vessels carrying this inherently dangerous and highly volatile material. This rule requires vessel traffic to maintain a safe distance from LNG vessels operating near or moored in Ponce, Puerto Rico.

**DATES:** This rule is effective October 24, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2007-0075 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Sector San Juan, Prevention Operations Department, Waterways & Facilities Division, 5 La Puntilla, San Juan, PR

00901 between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Ensign Rachael Love of Sector San Juan, Prevention Operations Department at (787)-289-2071. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On May 28, 2008, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Port of Ponce, Puerto Rico in the **Federal Register** (73 FR 30555). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

##### **Background and Purpose**

This rule is necessary to provide for the safety of life at sea by excluding vessel traffic from the waters immediately adjacent to LNG carriers. LNG in any quantity poses a risk of fire or explosion due to its highly volatile nature. LNG carried by tank ships in bulk quantities can be hazardous to a port if sufficient precaution is not taken to reduce this risk. The proposed rule would require vessel traffic to maintain a 100-yard separation from LNG vessels transiting the harbor and 150-foot separation from LNG vessels moored pierside. The purpose of this rule is to minimize the risk of vessel collision or allision with an LNG carrier, thereby reducing the risk of fire or explosion.

##### **Discussion of Comments and Changes**

No comments were received as a result of publishing the NPRM; therefore no changes have been made to the regulatory text.

##### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### **Regulatory Planning and Review**

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary due to the infrequent arrival of LNG carriers and the small amount of commercial vessel traffic in Bahia de Ponce.

##### **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.

This rule may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit a portion of Bahia de Ponce when an LNG vessel is transiting the harbor or moored at the Puerto de Ponce waterfront facility. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The Port of Ponce receives only a few commercial vessel arrivals per week, and recreational boating traffic can easily transit around the regulated area.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM 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.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

## 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.

## 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 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, 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. An environmental analysis checklist and a categorical exclusion determination are 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, Safety measures, and 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. 1226; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.771 to read as follows:

### § 165.771 Safety Zone; Bahia de Ponce, Puerto Rico

(a) *Location.* The following area is established as a safety zone during the specified conditions:

(1) A 100 yard radius around any vessel carrying Liquefied Natural Gas (LNG) cargo while transiting north of Latitude 17°54′00″ N in the waters of the Caribbean Sea and the Bahia de Ponce, on approach to or departure from the Puerto de Ponce waterfront facility in Bahia de Ponce.

(2) The waters within 150 feet of any vessel carrying LNG cargo while moored at the Puerto de Ponce waterfront facility in Bahia de Ponce, between berths 4 and 7 at approximate position 17°58′12″N, 066°37′08″ W.

(b) *Definitions.* The following definitions apply to this section:

*Designated Representative* means Coast Guard Patrol Commander including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels and federal, state, and local officers designated by or assisting the COTP San Juan in the enforcement of the safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in these zones is prohibited unless authorized by the Coast Guard Captain of the Port or a designated representative. Persons and vessels desiring to transit the Regulated Area may contact the U.S. Coast Guard Captain of the Port San Juan at telephone number 787–289–2041 or on VHF channel 16 (156.9 MHz).

(d) *Enforcement periods.* The Coast Guard will notify the maritime community of effective periods via a broadcast notice to mariners on VHF Marine Band Radio, Channel 22A (156.8 MHz).

Dated: August 29, 2008.

E. Pino,

*Captain, U.S. Coast Guard, Captain of the Port San Juan.*

[FR Doc. E8-22410 Filed 9-23-08; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0844]

RIN 1625-AA00

#### Safety Zone: Robert Moses Causeway Bridge State Boat Channel, Captree, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of the State Boat Channel surrounding the Robert Moses Causeway located in Captree, New York. This safety zone is necessary to protect vessels transiting the area from hazards imposed by construction barges and equipment. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, CT.

**DATES:** This rule will be effective from 12:01 a.m. on September 8, 2008 until 11:59 p.m. on May 24, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0844 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and at Coast Guard Sector Long Island Sound, 120 Woodward Ave., New Haven, CT 06512 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call LT Douglas Miller, Chief of Waterways Management, Coast Guard Sector Long Island Sound at 203-468-4569. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate work is needed to ensure the continued safe operation of the Robert Moses Causeway Bridge which in turn makes the publication of a notice of proposed rulemaking and associated comment period impractical as it would delay the needed repair and replacement work on the bridge.

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**. A delay or cancellation of this ongoing construction project is not in the public interest. In addition, this safety zone is necessary to ensure the safety of the maritime public and construction workers through the completion of this bridge construction project.

### Background and Purpose

Currently, the New York Department of Transportation is repairing the existing bascule and associated machinery of the Robert Moses Causeway Bridge located over the State Boat Channel in Captree, NY; these modifications are needed to ensure the continued safe operation of the bridge. To complete the modifications on the bridge, barges will need to block the waterway during the course of the project. To ensure the continued safety of the boating community, the Coast Guard is establishing a safety zone in all navigable waters of State Boat Channel within 100-yards of the Robert Moses Causeway Bridge. This safety zone is necessary to protect the safety of the boating community who wish to utilize the State Boat channel. Vessels may utilize the Great South Bay or Jones Inlet as an alternative route to using the State Boat Channel, adding minimal additional transit time. Marine traffic may also transit safely outside of the safety zone during the effective dates thus allowing navigation in all other areas of the State Boat Channel, except the portion delineated by this rule.

### Discussion of Rule

This regulation establishes a temporary safety zone on the State Boat Channel within 100-yards to either side of the Robert Moses Causeway Bridge. This action is intended to prohibit vessel traffic in a portion of the State Boat Channel within 100 yards of the Robert Moses Causeway Bridge in Captree, NY and to provide for the safety of the boating community due to the hazards posed by construction equipment located in the waterway during the repair of the existing span.

The effective period of this safety zone will be from 12:01 a.m. September 8, 2008 until 11:59 p.m. on May 24, 2009. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

Any violation of the safety zone described herein is punishable by, among other things, civil and criminal penalties, in rem liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast Guard-issued merchant mariner credentials.

### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

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.

This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels may transit in all areas of the State Boat Channel other than the area of the safety zone, and may utilize other routes with minimal increased transit time.

### 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.