

CODE—Continued

A60	Underage Convicted of Drinking and Driving at .02 or higher BAC.
A61	Underage Administrative Per Se—Drinking and Driving at .02 or higher BAC.
A90	Administrative Per Se for .10 BAC.
A94	Administrative Per Se for .04 BAC.
A98	Administrative Per Se for .08 BAC.
B01	Hit and run—failure to stop and render aid after accident.
B02	Hit and run—failure to stop and render aid after accident—Fatal accident.
B03	Hit and run—failure to stop and render aid after accident—Personal injury accident.
B04	Hit and run—failure to stop and render aid after accident—Property damage accident.
B05	Leaving accident scene before police arrive.
B06	Leaving accident scene before police arrive—Fatal accident.
B07	Leaving accident scene before police arrive—Personal injury accident.
B08	Leaving accident scene before police arrive—Property damage accident.
B10*	Refusal to reveal identity after accident—Fatal accident.
B11*	Refusal to reveal identity after accident—Personal injury accident.
B20	Driving while license withdrawn.
B21	Driving while license barred.
B22	Driving while license canceled.
B23	Driving while license denied.
B24	Driving while license disqualified.
B25	Driving while license revoked.
B26	Driving while license suspended.
B27*	Driving while an out of service order is in effect.
B41	Possess or provide counterfeit or altered driver license (includes DL, CDL, and Instruction Permit) or ID.
B51	Expired or no driver license (includes DL, CDL, and Instruction Permit).
B91	Improper classification or endorsement on driver license (includes DL, CDL, and Instruction Permit).
D02	Misrepresentation of identity or other facts on application for driver license (includes DL, CDL, and Instruction Permit).
D06	Misrepresentation of identity or other facts to obtain alcohol.
D07	Possess multiple driver licenses (includes DL, CDL, and Instruction Permit).
D16	Show or use improperly—Driver license (includes DL, CDL, and Instruction Permit).
D27	Violate limited license conditions.
D29	Violate restrictions of driver license (includes DL, CDL, and Instruction Permit).
D72	Inability to control vehicle.
D76*	Perjury.
E03	Operating without HAZMAT safety equipment as required by law.
M10	Failure to obey railroad gates, signs or signals.
M20	For drivers who are not required to always stop, failure to slow down at a railroad-highway grade crossing and check that tracks are clear of approaching train.
M21	For drivers who are not required to always stop, failure to stop before reaching tracks at a railroad-highway grade crossing when the tracks are not clear.
M22	For drivers who are always required to stop, failure to stop as required before driving onto railroad-highway grade crossing.
M23	For all drivers, failing to have sufficient space to drive completely through the railroad-highway grade crossing without stopping.
M24	For all drivers, failing to negotiate a railroad-highway grade crossing because of insufficient undercarriage clearance.
M80	Reckless, careless, or negligent driving.
M81	Careless driving.
M82	Inattentive driving.
M83	Negligent driving.
M84	Reckless driving.
S95	Speed contest (racing) on road open to traffic.
U07	Vehicular homicide.
U08	Vehicular manslaughter.
U31	Violation resulting in fatal accident.

* AAMVA is currently considering a change to this code on the ACD. When revisions to the ACD are finalized, the agency will determine whether corresponding changes should be made to the Appendix.

Issued on: March 26, 2004.

Jeffrey W. Runge,

Administrator, National Highway Traffic Safety Administration.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-04-017]

RIN 1625-AA00

Safety and Security Zones; Boston Harbor, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove the safety and security zones around the Pacific Gas and Electric (PG & E) Power Plant Terminal Wharf, Salem, Massachusetts, because the Captain of the Port Boston has determined that these zones are no longer needed. If this proposed rule is adopted as final, those seeking to enter these waters in Salem Harbor around the PG & E facility would no longer need to seek permission of the Captain of the Port.

DATES: Comments and related material must reach the Coast Guard on or before June 1, 2004.

ADDRESSES: You may mail comments and related material to Marine Safety Office (MSO) Boston, 455 Commercial Street, Boston, Massachusetts 02109. MSO Boston 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 MSO Boston between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

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 (CGD01-04-017), 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 Marine Safety Office Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting 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

As a result of the terrorist attacks on the World Trade Center and Washington, DC, on September 11, 2001, several security measures were enacted to protect vessels and facilities throughout the Captain of the Port Boston zone. On July 11, 2002, a final rule was published in the **Federal Register** (67 FR 45909) creating several

permanent safety and security zones in Boston and Salem Harbors under 33 CFR 165.116. One element of this regulation included the creation of safety and security zones around the Pacific Gas and Electric (PG & E) Power Plant Terminal in Salem, Massachusetts (33 CFR 165.116(a)(3)).

These zones were created to safeguard the facility, persons at the facility, and the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. Aside from protecting the facility and vessels from the new general terrorist threat, reasons for creating these zones in this location included historical occurrences of hostile protesters attempting to gain access to the facility. Since the publication of this regulation, however, the risk environment is better defined, and other security measures have been enacted, both of which support eliminating the permanent safety and security zones.

Despite initial concerns, the Coast Guard has found it unnecessary to continuously enforce these zones since their inception. With respect to the threat, there is no current specific threat to the PG & E terminal nor to ships destined there. Additionally, there have been no recent instances of protesters or other violent acts in that area. The risk that the vessels themselves pose to the terminal or surrounding area is relatively low, due to the non-volatile/non-explosive nature of their heavy fuel oil or coal cargoes. Lastly, under the Maritime Transportation Act of 2002 regulations, PG & E is required to institute terminal security procedures, which include preventing unauthorized access onto the facility from the waterside.

Since the expectation for permanent safety and security zones is that they will be enforced on a regular basis, the presence of these zones requires the expenditure of scarce Coast Guard resources. The relatively low risk posed and the experience over the past 2 years, as discussed above, support elimination of the permanent zones. In the event of a change to the threat environment, the Captain of the Port can quickly establish a temporary security zone to protect the PG & E terminal and/or associated vessels.

Discussion of Proposed Rule

This proposed rule would amend 33 CFR 165.116 by removing paragraph (a)(3) which describes 250-yard safety and security zones around the PG&E Power Plant Terminal Wharf, Salem, Massachusetts. The remaining zones in § 165.116—Reserved Channel, Boston

Harbor and Boston Inner Harbor—would remain in effect and unchanged. Our proposed rule also removes paragraph (b), Effective date, because it is not needed.

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 Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This proposed rule will not create a safety and security zone, but instead will remove an existing security zone thereby removing any perceived impediment to the maritime public.

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.

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 Chief Petty Officer Daniel Dugery, Waterways Safety and Response Division, Marine Safety Office Boston, at (617) 223-3000.

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 an 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. 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.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded 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. A draft "Environmental Analysis Check List" and a draft "Categorical Exclusion Determination" (CED) are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.116 to read as follows:

§ 165.116 Safety and Security Zones: Boston Harbor, Massachusetts.

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

(1) *Reserved Channel, Boston Harbor*. All waters of Boston Harbor within one hundred fifty (150) yards off the bow and stern and one hundred (100) yards abeam of any vessel moored at the Massachusetts Port Authority Black Falcon Terminal;

(2) *Boston Inner Harbor*. All waters of Boston Harbor within one hundred (100) feet of the Coast Guard Integrated Support Command (ISC) Boston piers.

(b) *Regulations*. (1) In accordance with the general regulations in § 165.23 and § 165.33 of this part, entry into or movement within these zones 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 or land area 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: March 8, 2004.

Brian M. Salerno,

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

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