

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket No. USCG-2008-0301]

RIN 1625-AA87

**Security Zone; Liquefied Natural Gas Carriers, Massachusetts Bay, MA**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone around Liquefied Natural Gas Carriers (LNGCs) approaching, engaging, regasifying, disengaging, mooring or otherwise conducting operations at the deepwater port facility in Massachusetts Bay, the Northeast Gateway Deepwater Port. The zone temporarily closes all waters of Massachusetts Bay within a five hundred (500) meter radius of LNGC vessels in the vicinity of the position 42°23' N, 070°36' W. The security zone is necessary to protect LNGCs calling on the deepwater port from security threats or other subversive acts. Entry into this zone is prohibited during the closure period unless authorized by the Captain of the Port Boston, Massachusetts.

**DATES:** This rule is effective from May 16, 2008, through July 12, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0301 and are available online at [www.regulations.gov](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 the U.S. Coast Guard Sector Boston, 427 Commercial Street, Boston, MA 02109 between 7 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 Chief Eldridge McFadden at 617-223-3000. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

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 an NPRM. The logistics with respect to the pending arrival of LNGC vessels was not determined with sufficient time to draft and publish an NPRM. A more robust regulatory scheme to ensure the security of vessels operating in the area has been developed via separate rulemaking, and is available for review and comment at the website [www.regulations.gov](http://www.regulations.gov) using a search term of USCG-2007-0087. The temporary security zones promulgated by this rule are needed for vessels scheduled to arrive prior to implementation of the final regulatory scheme proposed in the USCG-2007-0087 docket. Delaying the effective date of this rule is contrary to the public interest to the extent it would leave the Coast Guard without a regulatory enforcement tool to ensure the security of LNGCs scheduled to call on the deepwater port in the near future.

For these same reasons, 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**

Accelerate Energy will be using LNGCs to bring liquefied natural gas to Massachusetts Bay to discharge its cargo. It will be discharging the cargo at the Northeast Gateway Deepwater Port (NEGDWP) located in the Atlantic Ocean, approximately 7 nautical miles south-southeast of the City of Gloucester, Massachusetts, in Federal waters. The NEGDWP operator plans to offload the LNGCs by regasifying the LNG on board the vessel. The regasified natural gas is then transferred through two submerged turret loading buoys, via a flexible riser leading to a seabed pipeline that ties into the Algonquin Gas Transmission Pipeline for transfer to shore.

In order to ensure security at and around LNGCs engaged in regasification and transfer operations at the NEGDWP deepwater port, the Coast Guard Captain of the Port, Boston is exercising its authority under the Ports and Waterway Safety Act (33 U.S.C. 1221, *et seq.*) to place a security zone within the vicinity of any LNGC vessel approaching, engaging, regasifying, disengaging, mooring or otherwise conducting operations at the deepwater port facility in Massachusetts Bay that would prohibit vessels from entering all waters within a 500-meter radius of the vessel.

**Discussion of Rule**

The Coast Guard is establishing a temporary security zone encompassing all waters within a 500-meter radius of

any LNGC, which is carrying LNG while it is approaching, engaging, regasifying, disengaging, mooring, or otherwise conducting operations at the NEGDWP.

**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.

The temporary security zones implemented by this rule will only be enforced while LNGCs call on the Northeast Gateway Deepwater port. Moreover, the zones implemented by this rule are co-extensive with safety zones in 33 CFR 165.T01-0372 (73 FR 28041, May 15, 2008) already in place around the deepwater port itself. Accordingly, the COTP anticipates little net impact on marine traffic and waterway users from the addition of the security zones created by this temporary rule.

**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 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 Massachusetts Bay from May 16, 2008 through July 12, 2008. This security zone will not have a significant economic impact on a substantial number of small entities for the reason described under the Regulatory Evaluation section.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can 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 Commandant Instruction M16475.ID 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 final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be 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 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, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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. Add temporary § 165.T01-0301 to read as follows:

#### § 165.T01-0301 Security Zone: Liquefied Natural Gas Carrier Transit and Anchorage Operations, Massachusetts Bay, MA.

(a) *Location.* The following area is a security zone:

All waters of Massachusetts Bay, from surface to bottom, within a five hundred (500) meter radius of any Liquefied Natural Gas Carrier engaged in regasification or transfer, or otherwise moored, anchored, or affixed to the Northeast Gateway Deepwater Port located in Massachusetts Bay at approximate position 42°23' N, 70°36' W.

(b) *Effective period.* This section is effective from May 16, 2008, through July 12, 2008.

(c) *Definitions.* As used in this section—

*Authorized representative* means a Coast Guard commissioned, warrant, or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port, Boston (COTP).

*Deepwater port* means any facility or structure meeting the definition of deepwater port in 33 CFR 148.5.

*Support vessel* means any vessel meeting the definition of support vessel in 33 CFR 148.5.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.33

of this part, entry into or movement within the security zones is prohibited unless authorized by the COTP or his/her authorized representative. Support vessels assisting the Liquefied Natural Gas Carrier calling on the Northeast Gateway Deepwater Port are authorized to enter and move within the security zones of this section in the normal course of their operations.

(2) Vessel operators desiring to enter or operate within the security zone must contact the COTP or the COTP's designated representative to obtain permission by calling the Sector Boston Command Center at 617-223-5761 or via VHF-FM Channel 16. All persons and vessels granted permission to enter the security zone shall comply with the directions of the COTP or the COTP's authorized representative.

Dated: May 15, 2008.

**Gail P. Kulisch,**

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

[FR Doc. E8-12361 Filed 6-2-08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2007-1097; FRL-8572-6]

#### Approval and Promulgation of Air Quality Implementation Plans; MN; Maintenance Plan Update for Dakota County Lead Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving an update to the lead maintenance plan for Dakota County, Minnesota. This plan update demonstrates that Dakota County will maintain attainment of the lead National Ambient Air Quality Standard (NAAQS) through 2014. Minnesota has verified that the emission limits adopted to demonstrate modeled attainment continue to be met, that there are no new significant sources of lead or increases in background emissions, and that the state has in place a comprehensive program to identify sources of violations and address any violation through enforcement and implementation of a contingency plan.

**DATES:** This direct final rule will be effective August 4, 2008, unless EPA receives adverse comments by July 3, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal**

**Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-1097, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).
3. *Fax*: (312) 886-5824.
4. *Mail*: Doug Aburano, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: Doug Aburano, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2007-1097. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form

of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886-1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen D'Agostino, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Is the Background of This Action?
- II. What Has Minnesota Submitted?
- III. What Is EPA's Analysis of the Submittal?
- IV. What Action Is EPA Taking?
- V. Statutory and Executive Order Reviews

**I. What Is the Background of This Action?**

On January 6, 1992, EPA designated Dakota County, Minnesota as nonattainment for the National Ambient Air Quality Standard (NAAQS) for lead. On June 22, 1993, the Minnesota Pollution Control Agency (MPCA) submitted a State Implementation Plan (SIP) revision containing an administrative order for the Gopher Smelting and Refining Company (now known as Gopher Resources Corporation) as well as air modeling and monitoring data demonstrating attainment of the NAAQS in the area. The State also requested that EPA redesignate the area to attainment and included a maintenance plan, as required by section 175A of the Clean Air Act (CAA), which demonstrated maintenance of the standard for a ten year period. As part of this maintenance plan, Minnesota included contingency measures to be implemented by the