

a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From February 24, 2003 through April 14, 2003, in § 117.795, paragraph (b) is temporarily suspended, and a new temporary paragraph (d) is added, to read as follows:

#### § 117.795 Jamaica Bay and Connecting Waterways.

\* \* \* \* \*

(d) The draw of the New York City highway bridge, mile 0.8, across Mill Basin on Belt Parkway, need not open for the passage of vessel traffic from 7 a.m. on February 24, 2003 through 5 p.m. on April 14, 2003.

Dated: December 18, 2002.

**J.L. Grenier,**

*Captain, Coast Guard, Acting Commander,  
First Coast Guard District.*

[FR Doc. 02–32688 Filed 12–23–02; 2:42 pm]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[COTP Los Angeles-Long Beach 02–005]

RIN 2115–AA97

#### Security Zones; Liquefied Hazardous Gas Tank Vessels San Pedro Bay, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise current safety zone regulations by establishing security zones around and under all liquefied hazardous gas (LHG) tank vessels located on San Pedro Bay, California, in and near the ports of Los Angeles and Long Beach. These proposed security zones are needed for national security reasons to protect the public and ports from potential

subversive acts. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port Los Angeles-Long Beach.

**DATES:** Comments and related material must reach the Coast Guard on or before February 7, 2003.

**ADDRESSES:** You may mail comments and related material to U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, Waterways Management, 1001 S Seaside Avenue, Building 20, San Pedro, California, 90731. Waterways Management 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 Waterways Management between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Rob Griffiths, Assistant Chief of Waterways Management, (310) 732–2020.

#### 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 (COTP Los Angeles-Long Beach 02–005), 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 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.

In our final rule, we will include a concise general statement of the comments received and identify any changes from the proposed rule based on the comments.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Waterways Management at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one 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

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and growing tensions in Iraq have made it prudent for U.S. ports to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) (the "Magnuson Act") and implementing regulations promulgated by the President in Subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations.

In this particular rulemaking, to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against a LHG tank vessel would have on the public interest, the Coast Guard proposes to revise current LHG safety zone regulations by establishing security zones around and under any LHG tank vessels entering, departing, or moored within the ports of Los Angeles and Long Beach. These proposed security zones will help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against LHG tank vessels.

Current regulations issued under 33 CFR 165.1151 provide for safety zones around LHG tank vessels that are anchored, moored, or underway near the Los Angeles-Long Beach port areas. However, these safety zones are inadequate to address increased security requirements for LHG tank vessels.

On January 28, 2002, we published a temporary final rule (TFR) entitled "Security Zones; San Pedro Bay, California" in the **Federal Register** (67

FR 3814). In that rule, which expired on June 15, 2002, we temporarily replaced the LHG safety zones with security zones of a similar size and location.

On June 19, 2002, we published a TFR entitled "Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, CA" in the **Federal Register** (67 FR 41625). In that rule, which is set to expire on December 21, 2002, we continue to temporarily replace the safety zones with security zones for LHG tank vessels near Los Angeles-Long Beach. Although we had anticipated using the effective period of this TFR to engage in notice and comment rulemaking, the Captain of the Port will extend the effective period again to allow sufficient time to properly develop permanent regulations tailored to the present and foreseeable security environment. Accordingly, this rulemaking proposes to make permanent the temporary security zones established on June 11, 2002.

#### Discussion of Proposed Rule

The Coast Guard proposes to revise 33 CFR 165.1151 by replacing the existing safety zones with moving and fixed security zones around any LHG tank vessels that are anchored, moored, or underway within the Los Angeles and Long Beach port areas. These proposed security zones will take effect upon the entry of any LHG tank vessel into the waters within 3 nautical miles outside of the Federal breakwaters encompassing San Pedro Bay and will remain in effect until the LHG tank vessel departs this 3 nautical mile regulatory limit. Section 104 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107-295, 116 Stat. 2064) extended the geographical reach of the Magnuson Act to 12 nautical miles seaward of the baseline of the United States and added civil penalty liability for violation. This proposed rule does not exercise the full extent of the geographical limit allowed by the PWSA and the recently amended Magnuson Act. The Coast Guard retains discretion to extend the geographical reach of this rule via notice and comment procedures to the 12 nautical mile limit should circumstances warrant such action.

This proposed rule, for security concerns, prohibits entry of any vessels or persons inside the security zone surrounding any LHG tank vessel. These security zones are within a 500 yard radius around any LHG tank vessels that are anchored at a designated anchorage; within a 500 yard radius around any LHG tank vessels that are moored, or in the process of mooring, at any berth within the Los Angeles or Long Beach

port areas; and within 1000 yards ahead and 500 yards on each side and astern of any LHG tank vessels that are underway.

These security zones are needed for national security reasons to protect LHG tank vessels, the public, transiting vessels, adjacent waterfront facilities, and the ports from potential subversive acts, accidents, or other events of a similar nature. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port or his designated representative. Vessels already moored or anchored when these security zones take effect are not required to get underway to avoid either the moving or fixed zones unless specifically ordered to do so by the Captain of the Port or his designated representative.

Liquefied hazardous gas (LHG) as used in this section means a liquid containing one or more of the products listed in Table 127.005 of this part that is carried in bulk on board a tank vessel as liquefied petroleum gas, liquefied natural gas, or similar liquefied gas products.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Pursuant to 33 U.S.C. 1232 and 33 CFR part 27, any violation of the security zone described herein is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000), and in rem liability against the offending vessel and license sanctions. Any person who violates this section using a dangerous weapon or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation also faces imprisonment up to 12 years.

Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: Seizure and forfeiture of the vessel to the United States; a maximum criminal fine of \$10,000; imprisonment up to 10 years; and a civil penalty of not more than \$25,000 for each day of a continuing violation.

The Captain of the Port will enforce these zones and may request the use of the resources and personnel of other government agencies to assist in the patrol and enforcement of the proposed rule. The Captain of the Port retains discretion to initiate Coast Guard civil penalty action against non-compliant parties pursuant to the PWSA or the Magnuson Act, or, refer appropriate

cases to the cognizant U.S. Attorney Office for disposition. This rule is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 33 U.S.C. 1231.

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

We expect the economic impact of this proposed 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 because the zones will encompass only a small portion of the waterway for a limited period of time. Furthermore, vessels will be able to pass safely around the zones and may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port, or his designated representative.

The sizes of the zones are the minimum necessary to provide adequate protection for the LHG tank vessels, their crews, cargo, other vessels operating in the vicinity of the LHG tank vessels and their crews, adjoining areas, and the public. The entities most likely to be affected are commercial vessels transiting the main ship channels of Los Angeles or Long Beach and pleasure craft engaged in recreational activities and sightseeing. These security zones will prohibit commercial vessels from meeting or overtaking any LHG tank vessels in the main ship channels, effectively prohibiting use of the channels. However, the moving security zones will only be effective during LHG tank vessel transits, which last for approximately 30 minutes. Most vessels will be able to safely transit around these zones while a LHG tank vessel is moored or at anchor in the Ports of Los Angeles and Long Beach.

#### 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. We expect this proposed rule may affect the following entities, some of which may be small entities: The owners and operators of private and commercial vessels intending to transit or anchor in these small portions of the ports of Los Angeles and Long Beach near LHG tank vessels covered by these security zones. The impact to these entities would not, however, be significant since these zones are proposed to encompass only small portions of the waterway for limited periods of time while the LHG tank vessels are transiting, moored, or in the anchorage. Delays, if any, are expected to be less than thirty minutes in duration.

Small vessel traffic can pass safely around the area and vessels engaged in recreational activities, sightseeing, and commercial fishing have ample space outside of the security zone to engage in these activities. When LHG tank vessels are at anchor, vessel traffic will have ample room to maneuver around the security zone. The outbound or inbound transit of a LHG tank vessel will last about 30 minutes. Although this proposed regulation would prohibit simultaneous use of portions of the channel, this prohibition is of a short duration. And while a LHG tank vessel is moored, commercial traffic and small recreational traffic will have an opportunity to coordinate movement through the security zone with the COTP or his or her designated representative.

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 the person indicated in **FOR FURTHER INFORMATION CONTACT**.

#### **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 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 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. To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native Tribes, on July 11, 2002, we published a notice in the **Federal Register** (66 FR 36361) requesting comments on how to best carry out the order. 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. 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 have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are proposing to establish security zones. 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 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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Revise § 165.1151 to read as follows:

**§ 165.1151 Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, California**

(a) *Definition.* “Liquefied Hazardous Gas” as used in this section means a liquid containing one or more of the products listed in Table 127.005 of this part that is carried in bulk on board a tank vessel as liquefied petroleum gas, liquefied natural gas, or similar liquefied gas products.

(b) *Location.* The following areas are security zones:

(1) All waters, extending from the surface to the sea floor, within a 500 yard radius around any liquefied hazardous gas (LHG) tank vessel that is anchored at a designated anchorage either inside the Federal breakwaters bounding San Pedro Bay or outside at designated anchorages within 3 nautical miles of the breakwater;

(2) The shore area and all waters, extending from the surface to the sea floor, within a 500 yard radius around any LHG tank vessel that is moored, or in the process of mooring, at any berth within the Los Angeles or Long Beach port areas inside the Federal breakwaters bounding San Pedro Bay;

(3) All waters, extending from the surface to the sea floor, within 1000 yards ahead and 500 yards on each side and astern of any LHG tank vessel that is underway either on the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within 3 nautical miles seaward of the Federal breakwaters.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining in these zones is prohibited unless authorized by the Coast Guard Captain of the Port Los Angeles-Long Beach, or his or her designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number (800) 221-USCG (8724) or on VHF-FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(3) When any LHG tank vessels approach within 500 yards of a vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the LHG tank vessel’s security zone unless it is either ordered by or given permission from the Captain of the Port

Los Angeles-Long Beach to do otherwise.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of these security zones by the Los Angeles Port Police and the Long Beach Police Department.

Dated: November 26, 2002.

**J.M. Holmes,**

*Captain, Coast Guard, Captain of the Port, Los Angeles-Long Beach.*

[FR Doc. 02–32722 Filed 12–26–02; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

**[CGD13–02–018]**

**RIN 2115–AA97**

**Security Zone: Protection of Tank Ships, Puget Sound, WA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** In order to promptly respond to an increase in the Coast Guard’s maritime security posture, the Coast Guard proposes to establish regulations for the safety or security of tank ships in the navigable waters of Puget Sound and adjacent waters, Washington. This proposed security zone, when activated by the Captain of the Port Puget Sound, will provide for the regulation of vessel traffic in the vicinity of tank ships in the navigable waters of the United States.

**DATES:** Comments and related material must reach the Coast Guard on or before February 25, 2003.

**ADDRESSES:** You may mail comments and related material to Commanding Officer, Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134. 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 Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT A. L. Praskovich, c/o Captain of the Port Puget Sound, (206) 217–6232.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names, addresses, identify this rulemaking (CGD13–02–018) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Office at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place to be announced by a later notice in the **Federal Register**.

**Background and Purpose**

Recent events highlight the fact that there are hostile entities operating with the intent to harm U.S. National Security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sept. 20, 2002) continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 et seq.), that the security of the United States is and continues to be endangered following the attacks (E.O. 13273, 67 FR 56215 (Sept. 3, 2002) (security endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations)).

On October 15, 2002, the Captain of the Port Puget Sound issued a TFR (67 FR 66335, CGD13–02–015, 33 CFR section 165.T13–011) establishing tank ship protection zones, which expires on April 15, 2003. The Coast Guard, through this action, intends to assist tank ships by establishing a permanent security zone that upon activation by