

§ 165.T11-030 Security Zones; Port of San Diego.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all cruise ships while entering or departing the Port of San Diego. These moving security zones are activated when the cruise ship passes the Los Angeles sea buoy while entering the Port of San Diego. Temporary fixed security zones are established 100 yards around all cruise ships docked in the Port of San Diego. This security zone is deactivated when the cruise ship passes the sea buoy on its departure from the Port of San Diego.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, the following rules apply to security zones established by this section:

(i) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(ii) Each person and vessel in a security zone must obey any direction or order of the Captain of the Port;

(iii) The Captain of the Port may take possession and control of any vessel in a security zone;

(iv) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(v) No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port; and

(vi) No person may take or place any article or thing upon any waterfront facility in a security zone without the permission of the Captain of the Port.

(2) The Captain of the Port will notify the public, via local broadcast notice to mariners, upon activation of security zone around cruise ships transiting San Diego Harbor.

(3) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from complying with the rules of the road and safe navigation practice.

(4) The regulations of this section will be enforced by the Captain of the Port San Diego, or his authorized representative, and the San Diego Harbor Police.

(c) *Dates.* This section becomes effective at 11:59 p.m. PST on November 5, 2001, and will terminate at 11:59 p.m. PDT on June 21, 2002.

Dated: November 4, 2001.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[COTP Western Alaska 02-004]

RIN 2115-AA97

Security Zones; Liquefied Natural Gas Tanker Transits and Operations in Cook Inlet, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary 1000-yard radius security zones in the navigable waters around liquefied natural gas (LNG) tankers while they are moored and loading at Phillips Petroleum LNG Pier and while they are transiting outbound and inbound through the waters of Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. These security zones temporarily close all navigable waters within a 1000-yard radius of the tankers. This action is necessary to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community against sabotage or subversive acts.

DATES: This temporary final rule is effective from 12:01 a.m. January 28, 2002, until 12:01 a.m. April 30, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP Western Alaska 02-004 and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, Alaska between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Mark McManus, USCG Marine Safety Detachment Kenai, at (907) 283-3292 or Lieutenant Commander Chris Woodley, USCG Marine Safety Office Anchorage, at (907) 271-6700.

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), we find that good cause exists for not publishing an NPRM, and that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Because of the terrorist activities on September 11, 2001 and subsequent heightened security alerts, any delay in the effective date of this rule would be contrary to the public interest, as immediate action is needed

to protect the liquefied natural gas (LNG) tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. In addition, the Coast Guard will make public notifications prior to an LNG transit via marine information broadcasts to advise the maritime community when the security zones will be activated.

Background and Purpose

In light of the terrorist attacks in New York City and Washington, DC on September 11, 2001, the Coast Guard is establishing security zones on the navigable waters of Cook Inlet, Alaska to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. These security zones prohibit movement within or entry into the specified areas.

This rule establishes temporary 1000-yard radius security zones in the navigable waters around LNG tankers while moored and loading at Phillips Petroleum LNG Pier, Nikiski, Alaska and during their outbound and inbound transits through Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. The security zones are designed to permit the safe and timely loading and transit of the tankers. The security zones' 1000-yard standoff distance also aids the safety of these LNG tankers by minimizing potential waterborne threats to the operation. The limited size of the zones are designed to minimize impact on other mariners transiting through the area while ensuring public safety by preventing interference with the safe and secure loading and transit of the tankers.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12886, 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zones and

that vessels may still transit through the waters of Cook Inlet. Vessels may dock at other Nikiski marine terminals only with prior approval of the Captain of the Port, Western Alaska.

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 the vicinity of the Phillips Petroleum LNG Pier during the time these zones are activated.

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Marine traffic will still be able to transit through Cook Inlet during the zones’ activation. Additionally, vessels with prior approval from the Captain of the Port, Western Alaska will not be precluded from mooring at or getting underway from other Nikiski marine terminals in the vicinity of the zones.

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.

Consultation and Coordination With 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

The Coast Guard 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. This rule fits paragraph 34(g) as it establishes security zones. A “Categorical Exclusion Determination” is available in the docket for inspection or copying 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. 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. Add temporary § 165.T17–006 to read as follows:

§ 165.T17–006 Security Zones: Liquefied Natural Gas (LNG) Tanker Transits and Operations at Phillips Petroleum LNG Pier, Cook Inlet, Alaska.

(a) *Location.* The following areas are security zones: All navigable waters within a 1000-yard radius of liquefied natural gas (LNG) tankers while moored at Phillips Petroleum LNG Pier, 60°40′43″N and 151°24′10″W and all navigable waters within a 1000-yard radius of the tankers during their outbound and inbound transits through Cook Inlet, Alaska between Homer Pilot Station at 59°34′86″N and 151°25′74″W and Phillips Petroleum LNG Pier.

(b) *Effective period.* This section is effective from 12:01 a.m. January 28, 2002, until 12:01 a.m. April 30, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port representative or the designated on-scene patrol personnel. These personnel are comprised of commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: January 18, 2002.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

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