

**§ 1615.150 [Amended]**

- 9. Section 1615.150(c) and (d) are removed.
- 10. Section 1615.170 is amended as follows:
  - A. Revise paragraphs (a), (b), and (c).
  - B. Revise the first sentences of paragraphs (d)(1) and (d)(2).
  - C. Revise the third and fourth sentences of paragraph (i).
  - D. Revise paragraph (j).
  - E. Revise the first sentence of paragraph (k).
  - F. Add a new paragraph (n).

The revisions and additions read as follows:

**§ 1615.170 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs or activities conducted by the Commission in violation of section 504. This section also applies to all complaints alleging a violation of the agency's responsibility to procure electronic and information technology under section 508 whether filed by members of the public or EEOC employees or applicants.

(b) The Commission shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by EEOC in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). With regard to employee claims concerning agency procurements made in violation of section 508, the procedures set out in paragraphs (d) through (m) of this section shall be used.

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Office of Equal Opportunity (Director of OEO).

(d) \* \* \*

(1) \* \* \* Any person who believes that he or she has been subjected to discrimination prohibited by this part or that the agency's procurement of electronic and information technology has violated section 508, or authorized representative of such person, may file a complaint with the Director of OEO.

(2) \* \* \* Complaints shall be filed with the Director of OEO within one hundred and eighty calendar days of the alleged acts of discrimination. \* \* \*

(i) \* \* \* An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Chair at EEOC headquarters. It should be clearly marked "Appeal of Section 504 decision" or "Appeal of Section 508

decision" and should contain specific objections explaining why the person believes the initial decision was factually or legally wrong. \* \* \*

(j) Timely appeals shall be decided by the Chair of the Commission unless the Commission determines that an appeal raises a policy issue which should be addressed by the full Commission.

(1) The Chair will draft a decision within 30 days of receipt of an appeal and circulate it to the Commission.

(2) If a Commissioner believes an appeal raises a policy issue that should be addressed by the full Commission, he or she shall so inform the Chair by notice in writing within ten calendar days of the circulation of the draft decision on appeal.

(3) If the Chair does not receive such written notice, the decision on appeal shall be issued.

(4) If the Chair receives written notice as described in subparagraph (2), the Commission shall resolve the appeal through a vote.

(k) The Commission shall notify the complainant of the results of the appeal within ninety calendar days of the receipt of the appeal from the complainant. \* \* \*

\* \* \* \* \*

(n) Civil actions. The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) of the Rehabilitation Act, 29 U.S.C. 794a(a)(2) and 794a(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under this section.

Dated: July 2, 2008.

**Naomi C. Earp,**  
Chair.

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

[Docket Nos. USCG-2008-0372 and USCG-2008-0301]

**RIN 1625-AA00 and RIN 1625-AA87**

**Safety Zones; Northeast Gateway Deepwater Port, Atlantic Ocean, MA and Security Zone; Liquefied Natural Gas Carriers, Massachusetts Bay, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is extending the duration of two temporary safety

zones of 500 meter radii around the primary components, two independent submerged turret-loading buoys, of Exxcelerate Energy's Northeast Gateway Deepwater Port, Atlantic Ocean, and its accompanying systems, as well as extending the duration of the temporary security zone around Liquefied Natural Gas Carrier (LNGC) vessels approaching, engaging, regasifying, disengaging, mooring, or otherwise conducting operations at the deepwater port facility in Massachusetts Bay. The purpose of these temporary safety zones is to protect vessels and mariners from the potential safety hazards associated with deepwater port facilities. All vessels, with the exception of deepwater port support vessels, are prohibited from entering into or moving within either of the safety zones. The security zone is necessary to protect LNGC vessels calling on the deepwater port from security threats or other subversive acts.

**DATES:** This rule extends the current temporary regulations, which have been in effect since May 7, 2008 (USCG-2008-0372) (73 FR 28039), and May 16, 2008 (USCG-2008-0301) (73 FR 31612), through July 17, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0372 and USCG-2008-0301 respectively, are available online at [www.regulations.gov](http://www.regulations.gov). They are 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 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 Petty Officer Eldridge McFadden, Waterways Management Division, U.S. Coast Guard Sector Boston, at 617-223-5160. 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 deepwater port facilities discussed

elsewhere in this rule were recently completed and present potential safety hazards to vessels, especially fishing vessels, operating in the vicinity of submerged structures associated with the deepwater port facility. A more robust regulatory scheme to ensure the safety and security of vessels operating in the area, has been developed via separate rulemaking, and is available for review and comment at the Web site <http://www.regulations.gov> using a search term of USCG-2007-0087. That final rulemaking was published in the June 17, 2008, **Federal Register** (73 FR 34191) and will go into effect on July 17, 2008. This rule extends the existing temporary safety zones around the deepwater port infrastructure, as well as the temporary security zone around vessels scheduled to arrive in port, currently set to expire on July 12, 2008, until July 17, 2008, the effective date of the larger rulemaking. This extension is necessary to protect vessels from the hazards posed by the presence of the currently uncharted, submerged deepwater infrastructure. Failing to delay the effective day of this extension pending completion of notice and comment rulemaking is contrary to the public interest to the extent it could expose vessels currently operating in the area to the known, but otherwise uncharted submerged hazards. In addition, it would leave the Coast Guard without the regulatory enforcement tool that a security zone provides for vessels scheduled to call on the deepwater port in the near future.

For the 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

On May 14, 2007, the Maritime Administration (MARAD), in accordance with the Deepwater Port Act of 1974, as amended, issued a license to Excelerate Energy to own, construct, and operate a natural gas deepwater port, "Northeast Gateway." Northeast Gateway Deepwater Port (NEGDWP) is located in the Atlantic Ocean, approximately 13 nautical miles south-southeast of the City of Gloucester, Massachusetts, in Federal waters. The NEGDWP will accommodate the mooring, connecting, and offloading of two liquefied natural gas carriers (LNGCs) at one time. The NEGDWP operator plans to offload LNGC by degasifying the LNG on board the vessels. 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.

Excelerate recently completed installation of the STL buoys and associated sub-surface infrastructure, which includes, among other things, a significant sub-surface sea anchor and mooring system.

In December 2007, the Coast Guard established a safety zone around the submerged turret loading buoys while regulations were developed to protect the buoys as well as passing vessels. See 73 FR 1274. That temporary safety zone subsequently expired and was re-established by the Coast Guard on May 15, 2008. See 73 FR 28039. That temporary safety zone is set to expire on July 12, 2008. On June 3, 2008, the Coast Guard published a rule establishing a security zone around vessels engaging in operations in the Northeast Gateway Deepwater Port. See 73 FR 31612. The final rule discussed in docket number USCG-2007-0087 was ultimately published in the **Federal Register** on June 17, 2008. See 73 FR 34191. Accordingly, it will become effective on July 17. The temporary zones created by this rule ensure that there is no gap in authority to ensure safety around the submerged deepwater port infrastructure or around any vessels calling on the port until the final rule's effective date of July 17.

#### Discussion of Rule

The Coast Guard is re-establishing two temporary safety zones 500 meters around the Northeast Gateway Deepwater Port (NEGDWP) STL buoys as described above to protect vessels from submerged hazards and potential security threats or other subversive attacks. All vessels, other than LNGCs and associated support vessels, are prohibited from entering into or moving within the safety zones. The Coast Guard is also re-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.

This rule extends the effective date of the safety zones established in 73 FR 28039 and the effective date of the security zone established in 73 FR 31612 through July 17, 2008.

#### 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.

This regulation may have some impact on the public in excluding vessels from the areas of these zones. This impact, however, is outweighed by the safety and security risks mitigated by the enactment of these zones.

#### 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 may be small entities: The owners or operators of vessels intending to transit or anchor within 500 meters of the STL buoys for the deepwater port. The impact on small entities is expected to be minimal because vessels wishing to transit the Atlantic Ocean in the vicinity of the deepwater port may do so, provided they remain more than 500 meters from the buoys and any LNGC vessels calling on the deepwater port. Vessels wishing to fish in the area may do so in nearby and adjoining areas when otherwise permitted by applicable fisheries regulations.

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), 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.

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.

If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant Merridith Morrison, Assistant Chief, Waterways Management Division, Coast Guard Sector Boston, at 617-223-3028.

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 M16475.1D and the Department of Homeland Security Management Directive 5100.1, 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 as the rule establishes a safety zone.

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, and Waterways.

#### Words of Issuance and Regulatory Text

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. Amend § 165.T01-0372 to add paragraph (d) to read as follows:

**§ 165.T01-0372 Safety and Security Zones: Northeast Gateway, Deepwater Port, Atlantic Ocean, Boston, MA.**

\* \* \* \* \*

(d) *Effective Date.* This section is effective from July 3, 2008 until July 17, 2008.

- 3. Amend § 165.T01-0301 to revise paragraph (b) to read as follows:

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

\* \* \* \* \*

(b) *Effective Date.* This section is effective from July 3, 2008 until July 17, 2008.

\* \* \* \* \*

Dated: July 3, 2008.

Gail P. Kulisch,

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

[FR Doc. E8-15947 Filed 7-10-08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2005-0155; FRL-8691-2]

RIN 2060-AO52

### National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

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

**ACTION:** Final rule; withdrawal; revision.

**SUMMARY:** EPA published a direct final rule and parallel proposal on April 1, 2008, to amend revisions to the national perchloroethylene air emission standards for dry cleaning facilities which EPA promulgated on July 27, 2006. Because we received adverse comment during the comment period on the direct final rule and parallel proposal, we are withdrawing the direct final rule and taking final action on the proposed rule to reflect our response to the comments.

**DATES:** This final rule revision is effective July 11, 2008; the withdrawal of the direct final rule published on April 1, 2008, at 73 FR 17252 is effective July 11, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2005-0155. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available (e.g., Confidential Business Information (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 form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Docket ID No. EPA-HQ-OAR-2005-0155, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30

p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Warren Johnson, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143-03), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-5124, electronic mail address [Johnson.warren@epa.gov](mailto:Johnson.warren@epa.gov).

**SUPPLEMENTARY INFORMATION:** On April 1, 2008, EPA published a direct final rule and parallel proposal for "National Perchloroethylene Air Emission Standards for Dry Cleaning" (73 FR 17252). We stated in the direct final rule and parallel proposal that if we received adverse comments by May 16, 2008, the direct final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We received adverse comments on this direct final rule and are withdrawing it. As stated in the direct final rule and parallel proposal, we will not institute a second comment period on this action.

Concurrent with the direct final rule, we published a separate notice of proposed rulemaking, to provide for the contingency of adverse comments on the direct final rule (73 FR 17292). We are now issuing a final rule based on the notice of proposed rulemaking and on comments received.

**Judicial Review.** Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 9, 2008. Under CAA section 307(d)(7)(B), only an objection to the final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under CAA section 307(b)(2), any requirements established by the final action may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides a mechanism for EPA to convene a proceeding for reconsideration, "if the person raising the objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the rule." Any

person seeking to make such a demonstration to EPA should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section and the Director of the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344-A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

### I. What action is EPA taking?

In today's final rule, EPA is adopting the regulatory revisions to 40 CFR 63.320(d) and (e); 63.323(a)(1), (a)(1)(ii), (b) and (c); and 63.324(d)(5) and (6), including some modifications from what we proposed to address the comments received. We received no adverse comments on the proposed revisions to 40 CFR 63.323(a)(1)'s introductory text, 63.323(a)(1)(ii), or 63.324(d)(5)-(6), and these revisions are being adopted exactly as proposed. Similarly, we received no adverse comments on our proposed amendment to § 63.320(d) adding cross-references to §§ 63.322(o)(3) and 63.322(o)(5)(i), or on our proposed amendment to § 63.320(e) adding a cross-reference to § 63.322(o)(3); consequently, those additions are also being adopted.

However, one commenter, the State of Delaware, submitted a comment on the April 1, 2008 direct final rule and parallel proposal objecting to the removal from § 63.320(d) and (e) of cross-references to § 63.322(o)(4), claiming that the removal of these cross-references would have exempted existing dry-to-dry machine systems from certain requirements intended to prevent the new installation of any perchloroethylene (perc) machine in a building with a residence. Specifically that removal of these cross-references would allow owners and operators of dry cleaning systems installed after December 21, 2005 to relocate old, high-emitting dry-to-dry machine systems into residential buildings and significantly increase the residents' exposure to perc. Delaware recommended that our amendments to § 63.320(d) and (e) be revised to clarify that existing dry-to-dry machine systems "remain subject to" the requirements of § 63.322(o)(4).

We agree with the State of Delaware that our clarification would have had the unintended impact of revising requirements in the July 27, 2006 final rule. As we explained in the April 1, 2008 direct final rule (73 FR 17254), we believed that the cross-reference in