require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the federal government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and the 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this final rule.

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 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.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 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 117.25 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.899 is revised to read as follows:

§ 117.899 Youngs Bay and Lewis and Clark River.

(a) The draw of the US101 (New Youngs Bay) highway bridge, mile 0.7. across Youngs Bay at Smith Point shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times at least a four-hour notice by telephone is required. The opening signal shall be two prolonged blasts followed by one short blast.

(b) The draw of the Oregon State (Old Youngs Bay) highway bridge, mile 2.4, across Youngs Bay foot of Fifth Street, shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. Saturday and Sunday. At all other times at least a four-hour notice is telephone is required. The opening signal is two prolonged blasts followed by one short blast.

(c) The draw of the Oregon State (Lewis and Clark River) highway bridge, mile 1.0, across the Lewis and Clark River, shall open on signal for the passage of vessels if at least one half-hour notice is given by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times at least a four-hour notice is required. The opening signal is one prolonged blast followed by four short blasts.

Dated: October 1, 2001.

Erroll Brown,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 01–25426 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–181]

RIN 2115–AE84 and 2115–AA97

Regulated Navigation Area and Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing regulated navigation areas and safety and security zones for vessels operating within the New York Marine Inspection Zone and Captain of the Port Zone. This action is necessary to ensure public safety, prevent sabotage or terrorist acts, and facilitate the efforts of emergency services and law enforcement officers responding to recent terrorist attacks on sites in Manhattan, NY. The rule will prohibit vessels from entering certain areas of the port and impose restrictions on vessel operations in other areas.

DATES: This rule is effective September 28, 2001 through April 8, 2002. Comments and related material must reach the Coast Guard on or before December 10, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01–01–181 and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant K. Garza, Waterways Oversight Branch, Coast Guard Activities New York (718) 556–4407.

SUPPLEMENTARY INFORMATION:

Regulatory Information

As authorized by 5 U.S.C. 553, 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. This rulemaking is urgently required to facilitate emergency services responding to terrorist attacks recently perpetrated upon the World Trade Center in Manhattan, NY, and to prevent future terrorist strikes within and adjacent to the Port of New York/New Jersey. The delay inherent in the NPRM process is contrary to the public interest insofar as it may impair urgent life-saving efforts by emergency personnel or render individuals, vessels and facilities within the Port vulnerable to subversive activity, sabotage or terrorist attack.

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**. The measures contemplated by the rule are intended to facilitate ongoing, emergency response efforts and prevent future terrorist attack. Immediate action is needed to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

Request for Comments

Although the Coast Guard has good cause to implement this regulation without engaging in the Notice of Proposed Rulemaking process, we want to afford the maritime community the opportunity to participate in this rulemaking by submitting comments and related material regarding the size, scope and duration of the Regulated Navigation Areas, safety zones and security zones in order to minimize unnecessary burdens on waterway users. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD01–01–181], 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 they 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 temporary final rule in view of them.

Background and Purpose

Terrorist attacks against the World Trade Center in Manhattan, New York on September 11, 2001 inflicted catastrophic human casualties and property damage. Federal, state and local personnel are engaged in ongoing efforts to rescue survivors and secure other potential terrorist targets from attack. The Coast Guard has established regulated navigation areas and safety and security zones within defined areas of water in order to facilitate emergency response and rescue activities, protect human life, and safeguard vessels and waterfront facilities from sabotage or terrorist acts. If a change in conditions during the effective period of this rule warrants lifting or mitigating any restriction imposed in the rule, the decision to modify or waive enforcement of that restriction will be communicated by broadcast notice to mariners. These regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1221, 1223, 1225 and 1226.

Regulated Navigation Area

The rule establishes a regulated navigation area (RNA) that includes portions of the Hudson River, as well as New York Harbor Upper and Lower Bays, Sandy Hook Bay, Raritan Bay, Newark Bay, Arthur Kill and Kill Van Kull. Deep draft vessels are required to meet certain conditions before entering the RNA. The conditions are imposed in order to protect the subject vessels from subversive or terrorists acts and to prevent their use as platforms for terrorist acts against individuals, other vessels, waterfront facilities or adjoining population centers.

In addition, the rule restricts passenger ferry services to specific points on Manhattan Island at which they may land to embark or disembark passengers. This restriction is intended to prevent undue congestion in areas where emergency response and rescue vessels are operating and to limit the introduction of pedestrian traffic in restricted, hazardous portions of lower Manhattan.

Any vessel authorized by its Certificate of Inspection to carry more than 49 passengers will be required to submit a Vessel Security Plan before being allowed to operate within the RNA. While operating within the RNA, passenger vessels authorized to carry more than 49 passengers must employ methods to secure the vessel from hijacking. These security requirements will help to ensure that passenger vessels operating in close proximity to population centers and waterfront facilities cannot be commandeered for use by terrorists or saboteurs.

Recreational vessels are prohibited from operating within the RNA. This restriction is necessary in order to provide security for waterfront facilities susceptible to sabotage or terrorist acts, alleviate undue vessel traffic congestion and prevent interference with law enforcement and emergency response vessels. If circumstances permit the resumption of some recreational vessel traffic, the Captain of the Port will broadcast the terms and conditions under which recreational vessels may resume operation within the RNA.

Included within the regulated navigation area is a special sector, designated ''Area A'', which includes all waters within the RNA consisting of the Hudson River south of the Holland Tunnel ventilators; thence west of line drawn from the Governor's Island ventilators to the western end of the Brooklyn Bridge; thence from the southwest corner of Pier Lima on Governor's Island to Liberty Island Gong Buoy 29 (LLNR 34995) thence to the southeast corner of Pier 7 at Liberty State Park. Only emergency response vessels directly assisting with the disaster in lower Manhattan may operate in Area A. Commercial vessels assisting with the disaster recovery efforts in Area A must contact Vessel Traffic Services New York (VTSNY) prior to entering this emergency response zone. All vessels operating within Area A must do so at no wake speeds, or 10 knots, whichever is less. This restriction is imposed in order to prevent interference with emergency response personnel and equipment operating on and adjacent to the affected shoreline.

Violations of the regulated navigation areas are punishable by civil penalties (not to exceed $25,000 per violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than $250,000) and in rem liability against the offending vessel.

Safety and Security Zones

The rule also establishes six distinct safety and security zones. Four of the zones are established by reference to fixed boundaries and are intended to protect individuals, other vessels and waterfront facilities from subversive or terrorist acts. Two of the zones are defined by reference to a fixed radius around vessels capable of movement throughout the Port of New York/New Jersey. These zones are intended principally to protect the vessels themselves from subversive or terrorist acts.

No person or vessel may enter or remain in the prescribed safety and security zones at any time without the permission of the Captain of the Port. Each person or vessel in a safety and security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a safety and security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port.

Any violation of any safety or security zone described herein, is punishable by, among others, civil penalties (not to exceed $25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than $250,000), in rem liability against the offending vessel, and license sanctions.

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. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The sizes of the zones are the minimum necessary to provide adequate protection for the public, vessels, and vessel crews. Any vessels seeking entry into or movement within the safety and security zones must request permission from the Captain of the Port or his authorized patrol representative. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the public, vessels, and vessel crews from the further devastating consequences of the aforementioned acts of terrorism, and from potential future sabotage or other subversive acts, accidents, or other causes of a similar nature.

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.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities. Maritime advisories will be initiated by normal methods and means and will be widely available to users of the area.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call LT Kathleen Garza, telephone (718) 556–4407. 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).

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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. 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 rule and concluded that under figure 2–1,

paragraph 34(g) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. 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.T01–165 to read as follows:

§ 165.T01–165 Regulated Navigation Area: New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Regulated navigation area.* The following waters within the boundaries of the New York Marine Inspection Zone and Captain of the Port Zone are established as Regulated Navigation Areas:

(1) All waters of the Hudson River, New York Harbor Upper and Lower Bays, Sandy Hook Bay, Raritan Bay, Newark Bay, Arthur Kill and Kill Van Kull, within the following boundaries: south of the George Washington Bridge on the Hudson River; west of a line drawn from the Governor's Island ventilators to the western end of the Brooklyn Bridge; north of a line drawn between Rockaway Point, NY and the northern tip of Sandy Hook, NJ; south of Leigh-Valley Bridge; and east of the Raritan River Cut-off.

(2) Within the RNA is a smaller sector designated Area A—Lower Manhattan: All waters within the RNA consisting of the Hudson River south of the Holland Tunnel ventilators; all waters west of a line drawn from the Governor's Island ventilators to the western end of the Brooklyn Bridge, thence from the southwest corner of Pier Lima on Governor's Island to Liberty Island Gong Buoy 29 (LLNR 34995) thence to the southeast corner of Pier 7 at Liberty State Park.

(b) *Applicability.* This section applies to all vessels operating within the Regulated Navigation Area, including naval and public vessels, except vessels that are engaged in the following operations:

(1) Law enforcement;

(2) Emergency response;

(3) Servicing aids to navigation; or

(4) Surveying, maintenance, or improvement of waters in the Regulated Navigation Area.

(c) *Effective dates.* This section is effective from September 28, 2001 through April 8, 2002.

(d) *Regulations.* (1) Only emergency response vessels directly assisting with the disaster in lower Manhattan may operate in the sector designated Area A. Commercial vessels assisting with the disaster recovery efforts in Area A must contact Vessel Traffic Services New York (VTSNY) prior to entering the area. Vessels transiting Area A must do so at no wake speed, or speeds not to exceed 10 knots, whichever is less.

(2) Passenger ferry services operating within the RNA are not authorized to use ferry slips south of 14th Street in Manhattan, without receiving express authorization from VTSNY.

(3) Any passenger ferry operating within the RNA is required to contact VTSNY before getting underway to ensure compliance with the foregoing requirements in this section and to inform VTSNY of the vessel's destination.

(4) No vessel whose Certificate of Inspection authorizes it to carry more than 49 passengers may enter, transit or operate within the RNA until Coast Guard Activities New York, Inspection Division, has reviewed and approved that vessel's Security Plan. An approved Vessel Security Plan submitted in accordance with 33 CFR 120 will satisfy the requirements of this section. A Vessel Security Plan shall, at a minimum:

(i) Describe all measures taken to ensure the physical security of the vessel and the security, safety and identity of persons on board the vessel;

(ii) Identify those areas and spaces on the vessel that passengers are restricted or prohibited from entering or accessing; and

(iii) Establish a procedure to address and report terrorist or hijacking threats.

(5) Each passenger vessel whose Certificate of Inspection authorizes it to carry more than 49 passengers shall keep its pilot house door closed and locked while operating within the RNA to ensure maximum protection of the passengers and crew.

(6) All deep draft vessels operating within the RNA must enter the Port via Ambrose or Sandy Hook Channels. Before entering the RNA, the following conditions must be met:

(i) The vessel must undergo a port security inspection by the U. S. Coast Guard;

(ii) The vessel's agent must confirm that the vessel's berth is ready to receive the ship;

(iii) The vessel must embark a pilot; and

(iv) The vessel must be escorted by two tugs when transiting the harbor inside of one nautical mile (1 NM) south of the Verrazano Narrows Bridge or the Outerbridge Crossing.

(7) Recreational vessels are prohibited from operating within the RNA. If circumstances permit the resumption of some recreational vessel traffic during the effective period of this rule, the Captain of the Port will broadcast the terms and conditions under which recreational vessels may operate within the RNA.

3. Add temporary § 165.T01–166 to read as follows:

§ 165.T01–166 Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Safety and security zones.* The following are established as safety and security zones:

(1) *Safety and Security Zone A.* Indian Point Nuclear Power Plant: All waters of the Hudson River within 1000 yards of the Indian Point Nuclear Power Station, located south of Peekskill Bay, from Charles Point on the north to the overhead power cables to the south.

(2) *Safety and Security Zone B.* OEM Emergency Command Post: All waters of the Hudson River bound by the following points: from the northeast corner of Pier 96, Manhattan, where it intersects the seawall; thence to approximate position 40°46′23″ N, 073°59′59″ W; thence to 40°45′56.4″ N, 074°00′19.1″ W; thence to the southeast corner of Pier 84, Manhattan, where it intersects the seawall; thence along the shoreline to the point of origin (NAD 83).

(3) *Safety and Security Zone C.* Liberty Island. All waters of Upper New York Bay bound by the following points: the northeast corner of Liberty State Park in approximate position 40°42′20.4″ N, 074°02′06.2″ W; thence to Ellis Island Lighted Gong Buoy 31 (LLNR 35005); thence to Liberty Island Lighted Gong Buoy 29 (LLNR 34995); thence to the southeast corner of Pier 7, Liberty State Park, in approximate position 40°41′26.2″ N, 074°03′17.9″ W.

(4) *Safety and Security Zone D.* USNS COMFORT: A moving security zone including all waters within a 200-yard radius of the USNS COMFORT while it is transiting, moored or berthed in any

portion of the Port of New York/New Jersey.

(5) *Safety and Security Zone E.* U.S. Coast Guard vessels: All waters within a 100-yard radius of any anchored U.S. Coast Guard vessel.

(6) *Safety and Security Zone F.* Bridge stanchions: All waters within 25 yards of any bridge stanchion in the Port of New York/New Jersey including, but not limited to, the following bridges at the specified mile markers:

(i) In the East River: Brooklyn Bridge (Mile 0.8), Manhattan Bridge (Mile 1.1), Williamsburg Bridge (Mile 2.3), Queensboro Bridge (Mile 5.5), Triboro Bridge (Mile 7.8), Whitestone Bridge (Mile 13.8) and Throgs Neck Bridge (Mile 15.8);

(ii) In the Hudson River: George Washington Bridge (Mile 11.8)

(iii) In the Kill Van Kull: Bayonne Bridge (Mile 1.5);

(iv) In the Arthur Kill: Outerbridge Crossing (Mile 2.0), Goethals Bridge (Mile 11.5) and AK Lift Bridge (Mile 11.6); and

(v) In New York Harbor: Verrazano Narrows Bridge.

(b) *Effective dates.* This section is effective from September 28, 2001 through April 8, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the 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: September 28, 2001.

G.N. Nacarra,

Rear Admiral, U.S. Coast Guard District Commander.

[FR Doc. 01–25290 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–01–037]

RIN 2115–AE84

Regulated Navigation Area: Savannah River, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary Regulated Navigation Area (RNA) on a portion of the Savannah River to regulate waterway traffic when vessels carrying Liquefied Natural Gas (LNG) are transiting or moored on the Savannah River. This action is necessary because of the size, draft, and volatile cargo of LNG tankships. This rule enhances public and maritime safety by minimizing the risk of collision, allision or grounding and the possible release of LNG.

DATES: This rule is effective from 12:01 a.m. on September 30, 2001 until 11:59 p.m. on March 31, 2002.

ADDRESSES: You may mail comments and related material to Coast Guard Marine Safety Office Savannah, Juliette Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia 31401. Coast Guard Marine Safety Office Savannah 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 [CGD07–01–037], will become part of this docket and will be available for inspection or copying at Marine Safety Office Savannah, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James Hanzalik at the Marine Safety Office Savannah; phone (912) 652–4353 extension 205.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 19, 2001 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled Regulated Navigation Area; Savannah River, Georgia (66 FR 32915). The Coast Guard received twenty-two letters commenting on the proposed rule. No public hearing was requested, and none was held. Due to the substantial amendments to the proposed rule as a result of these comments, additional research, and simulations conducted by the U.S. Coast Guard, this temporary final rule is established while a supplemental notice of proposed rulemaking is issued and comments received.

This temporary rule is needed while we allow the public to comment on our modified proposed rule because of the imminent start up of the Southern LNG Elba Island facility and arrival of LNG tankships.

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 a NPRM. On June 19, 2001 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled Regulated Navigation Area; Savannah River, Georgia (66 FR 32915). This NPRM proposed the general regulatory scheme contained in this temporary rule. Due in part to the comments we received, we will publish a supplemental notice of proposed rulemaking (SNRPM) and propose another final rule, offering the public the opportunity to comment on our revised proposal. However, immediate action is necessary to protect the public from the dangers associated with transporting LNG.

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

The port of Savannah will begin receiving LNG tankships at the Southern LNG Elba Island facility in early October 2001. This temporary rule is necessary to protect the safety of life and property on the navigable waters from hazards associated with LNG activities.

The Savannah River has a narrow and restricted channel with many bends. The LNG facility is located at one of these bends on Elba Island. The LNG tankship berth is located adjacent to and parallel with the toe of the shipping channel. Because of these factors, the hazardous nature of LNG and the substantial volume of deep draft vessel traffic in Savannah (approximately 5000 annual transits), the risk of collision or allision involving an LNG tankship must be addressed.

The Elba Island LNG facility has been struck by passing vessels twice in the past 20 years. In both instances the facility was inactive, however, damage to both the facility and vessels was extensive. The potential consequences from this type of allision would be significantly more severe with an LNG tankship moored at the Elba Island dock. This temporary rule is needed to prevent incidents involving a LNG tankship in transit or while moored at the facility.

Discussion of Comments and Changes

The Coast Guard received twenty-two comment letters addressing the notice of proposed rulemaking. The Coast Guard has incorporated some of the comments and made content changes and other administrative and numbering corrections in this temporary final rule. The specific section of the proposed rule that each comment or group of