

rulemaking, escorted vessels include any vessels designated by the Coast Guard Captain of the Port, Portland, Maine to be in need of Coast Guard escorts in the Portland, Maine, COTP zone, other than Liquefied Petroleum Gas (LPG) vessels, which are covered under 33 CFR 165.103, or high capacity passenger vessels, which are covered under 33 CFR 165.105. A designated representative aboard a Coast Guard cutter or patrol boat will accompany vessels deemed in need of escort protection.

These security zones are needed to protect escorted vessels, their crews, and the public, from harmful or subversive acts, accidents or other causes of a similar nature. The security zones have boundaries as follows: All navigable waters, within the Portland Maine, Captain of the Port zone, extending from the surface to the sea floor, extending 200-yards ahead, and 100-yards aside and astern of any designated vessel that is underway.

No person or vessel may enter or remain in the prescribed security zones at any time without the permission of the Captain of the Port. Each person or vessel in a security zone shall obey any direction or order of the Captain of the Port or the designated Coast Guard on-scene representative. The Captain of the Port may take possession and control of any vessel in a 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 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 10 years and a fine of not more than \$100,000), *in rem* liability against the offending vessel, and license sanctions. This regulation is established under the authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

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 zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. Moreover, the Coast Guard 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.

Discussion of Rule

This proposed rule establishes temporary security zones for vessels designated to be in need of Coast Guard escorts by the Captain of the Port, Portland, Maine, while those vessels are transiting within the Portland, Maine, Captain of the Port zone. The security zones will encompass all navigable waters, within the Portland, Maine, Captain of the Port zone, extending from the surface to the sea floor, extending 200-yards ahead, and 100-yards aside and astern of any escorted vessel that is underway.

Given the threat of sabotage, terrorist or subversive attacks, this proposed rule is necessary to immediately assist the Coast Guard in providing adequate protection around escorted vessels while transiting in the Portland, Maine, COTP zone under Coast Guard escort. Specifically, the vessels at issue include: those which are deemed by the Captain of the Port, Portland, Maine to be in need of Coast Guard escorts, for security reasons. A designated representative aboard a Coast Guard cutter or patrol boat will accompany vessels deemed in need of this escort protection.

The Captain of the Port, Portland, Maine will notify the maritime community of the periods during which the safety and security zones will be enforced. Broadcast notifications will be made to the maritime community advising them of the boundaries of the zones and a designated representative aboard a Coast Guard cutter or patrol boat will accompany vessels deemed in need of escort.

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 Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of the DHS is unnecessary. Although this proposed rule will prevent some traffic from moving within a portion of the

harbor during escorted vessel transits, the effect of this regulation will not be significant for several reasons: the impact on the navigational channel will be for a minimal amount of time, there is ample room to navigate around the zones, and delays, if any, will be minimal, as vessels will only have to wait a short time for the escorted vessel to pass if they cannot safely pass outside the zones. Moreover, broadcast notifications will be made via VHF radio to the maritime community advising them of the boundaries of the zones and Coast Guard and other law enforcement assets will be on-scene to direct vessels away from the zones. Vessels will be able to arrange passage through the zones, if needed, with the permission of the Captain of the Port or the designated on-scene patrol representative.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 these zones during escorted vessel transits. However, this rule will not have a significant economic impact on a substantial number of small entities due to the minimal time that vessels will be restricted from the area of the zones; vessels can pass safely around the zones; vessels will only have to wait a short time for the escorted vessel to pass if they cannot safely pass outside the zones; and advance notifications will be made to the local maritime community by marine information broadcasts.

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 rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule would affect your small business, organization or governmental