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The reopening of the terminal warrants reevaluation of the current zone, and the increased risk of a transportation security incident warrants the enforcement of the security zone. The Coast Guard has evaluated and weighed the comments it has received regarding this security zone and has addressed the concerns of those who may be affected by it. The purpose of the safety zone is to protect the public from the hazards associated with the cryogenic liquid that is always present at the offshore terminal. The purpose of the security zone is to lower the risk of a potential transportation security incident. The Coast Guard believes that a 500-yard safety and security zone is the appropriate size to provide for both public safety and security of the terminal. In addition, the Coast Guard has coordinated its security evaluation with federal, State, and local agencies prior to the issuance of this rule.

Five comments offered suggestions. Two comments requested that the local community, Coast Guard, and Dominion Corporation come up with an artificial reef somewhere nearby to replace the "gas docks." Another comment stated that security can be managed by painting the charter fleet international orange and letting the charter fleet fish near the docks in the hope that they would defend the docks. Another comment stated that the Coast Guard or Dominion Corporation should provide notice of scheduled LNG vessel arrivals. Another comment suggested marking the zone with buoys. The Coast Guard appreciates these five suggestions, but considers them beyond the scope of this rulemaking.

Discussion of Changes in Rule

The final rule remains the same as the rule we proposed in our NPRM with the exception of the elimination of the paragraph on authority. Since publication of the NPRM, the authorities citation for 33 CFR part 165 has changed. This new authorities citation for the part eliminates the need to cite to 33 U.S.C. 1226 in § 165.502. Therefore we have eliminated the authority paragraph and redesignated the enforcement paragraph as paragraph (c).

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).

There will be adverse effects on members of the local maritime community that have been using the area as a fishing ground. Since the terminal has not been in operation, the Coast Guard has not enforced the current zone under 33 CFR 165.502 (see notice of enforcement, 67 FR 70696, November 26, 2002). Recreational and commercial vessel operators have been using the area on a regular basis for recreational fishing, commercial fishing, passenger tours, and fishing parties. However, enforcement of the current zone would also prohibit these recreational and commercial vessel operators from using this area.

Eleven comments addressed the potential economic impact of this rule on the local fishing industry. Three comments offered separate business cost estimates as a result of the implementation and enforcement of this exclusion zone. One commenter estimated that each year between May 15 and November 15, 70 boats per day fish at the "gas docks." The commenter further estimated that implementation of this safety and security zone would result in an economic impact to the local economy of \$1.986 million for his business alone, and a total economic impact of at least \$9 million per year for all vessels fishing there. Additionally, the commenter estimated that a 500-yard zone would totally eliminate fishing around this popular fishing area. By closing this fishing area the commenter believes anglers will place undue fishing pressure on other fishing areas. Another comment cited the Maryland Department of Natural Resources figures that estimate the economic impact of the Cove Point LNG fishery to be \$5–\$10 million per year. A third comment stated that its business gets half its fishing income from fishing the "gas docks." It is important to note that while this regulation does restrict activities at a specific location, similar activities can still take place outside of the zone and elsewhere throughout the Chesapeake Bay. As a result, this regulation may inconvenience some businesses, but this rule does not constitute a complete cessation of business. Businesses may continue to operate and fish in areas that are not within the safety and security zone. While this makes it difficult for the Coast Guard to accurately determine the level of impact that each business will

face, it is unlikely that the cumulative economic impact of this restriction would reach the threshold of a "significant regulatory action" (\$100,000,000 per year) and therefore a regulatory assessment is not necessary.

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 vessels intending to transit the area surrounding the Cove Point LNG facility. It will also affect anglers intending to fish in the area around the Cove Point LNG facility.

Ten comments stated that this rule would have a significant impact on the local fishing community. Two comments stated that this rule would create an adverse economic impact on 100 small businesses in five surrounding counties. It is likely that this proposed rule would impact a substantial number of small entities; however, it is unlikely that they would be impacted significantly. Therefore, additional guidance to small businesses will not be necessary.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking process. This was accomplished by publishing a notice of proposed rulemaking outlining the Coast Guard's intentions and inviting comments regarding the rule's potential impact to small entities. Additionally, the Coast Guard held a public meeting where it invited owners of small entities to speak out and provide additional and amplifying information to the Coast Guard on the potential impact this rule may have on their small businesses.

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