

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 100, 117 and 165

[USCG-2002-13238]

**Safety Zones, Security Zones, Drawbridge Operation Regulations and Special Local Regulations**

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued; correction.

**SUMMARY:** This document corrects a notice of temporary rules issued published in the **Federal Register** on July 30, 2002, collecting those temporary rules issued by the Coast Guard for which timely publication in the **Federal Register** was not possible. That document contained an inaccurate docket number. The correct docket number appears in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:**

LTJG Sean Fahey, Office of Regulations and Administrative Law, at (202) 267-2830.

**SUPPLEMENTARY INFORMATION:****Correction**

The heading of the notice of temporary rules issued published July 30, 2002, on page 49236 of the **Federal Register**, contained an incorrect docket number, USCG-2002-11544. The correct docket number is USCG-2002-13238. To advise the public of this error, we are publishing this notice of correction.

**Correction of Publication**

Accordingly, the notice of temporary rules issued published July 30, 2002, FR Doc. 02-19135, [docket number USCG-2002-11544], is corrected as follows: On page 49236, in the heading, "USCG-2002-11544" is corrected to read "USCG-2002-13238".

Dated: August 27, 2002.

**S.G. Venckus,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

[CGD01-02-065]

RIN 2115-AA97

**Safety and Security Zones; High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, RI**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing permanent safety and security zones around high interest vessels (HIVs) while those vessels are operating within Rhode Island Sound, Narragansett Bay, and the Providence and Taunton Rivers. This rule also establishes safety and security zones around HIVs and adjacent land areas while HIVs are moored at waterfront facilities in the Providence Captain of the Port zone. The safety and security zones are needed to safeguard the public, high interest vessels and their crews, other vessels and their crews, and the Port of Providence, Rhode Island from sabotage or other subversive acts, accidents, or other causes of a similar nature.

**DATES:** This rule is effective September 15, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in the preamble as being available in the docket, are part of docket CGD01-02-065 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, E. Providence, RI, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT David C. Barata at Marine Safety Office Providence, (401) 435-2345.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

On December 12, 2001, we published a temporary final rule (TFR) entitled "Safety And Security Zones: High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, RI" in the **Federal Register** (66 FR 64144-64146). The effective period for this rule was from October 6, 2001, until June 15, 2002. The original TFR was urgently required to prevent possible terrorist strikes against high interest vessels (HIVs) within and adjacent to Rhode Island Sound, Narragansett Bay, and the Providence and Taunton Rivers.

It was anticipated that we would assess the security environment at the end of the effective period to determine whether continuing security precautions were required and, if so, to propose regulations responsive to existing conditions. We determined the need for continued security regulations existed and issued a change to the effective period in the **Federal Register** (67 FR 35035, May 17, 2002). The Coast Guard used the extended effective period of the TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment within the COTP Providence Zone.

On June 20, 2002, the Coast Guard published a notice of proposed rulemaking (NPRM) to propose to make permanent the temporary safety and security zones created and then extended by TFRs (66 FR 64144, December 12, 2001, and 67 FR 35035, May 17, 2002). The last date for submitting comments and related materials on the proposed permanent rule was August 5, 2002.

We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. This final rule makes effective the safety and security measures that have been in place on a temporary basis since October 2001.

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**. Any delay in the effective date of this regulation would be contrary to the public interest since prompt action is needed to ensure the continued security of HIV transits, the port, facilities, and the maritime community. The temporary rule issued on October 6, 2001, for security of HIVs (66 FR 64144), will be in effect only until September 15, 2002 (67 FR 35035).

Implementation of this regulation on September 15, 2002, is necessary to prevent any lapse in the established security procedures and to facilitate ongoing response efforts and prevent future terrorist attack. Any delay in the effective date would leave critical HIV cargo vessels, their crews, the port, facilities, and the maritime community with inadequate security measures to meet potential threats. Since the October 2001 effective date of the temporary rule, approximately seven high interest vessel transits have occurred under the temporary regulation. Disruptions to waterways users have been minimal and no complaints have been received.

## Background and Purpose

In light of terrorist attacks on New York City and Washington, DC on September 11, 2001, and the continuing concern for future terrorist acts against the United States, we have established permanent safety and security zones to safeguard high interest vessels transiting Narragansett Bay en route commercial facilities in the upper Providence River and Taunton River. For purposes of this rulemaking, high interest vessels operating in the Providence Captain of the Port zone include barges or ships carrying liquefied petroleum gas (LPG), liquefied natural gas, chlorine, anhydrous ammonia, or any other cargo deemed to be high interest by the Captain of the Port.

Title 33 CFR 165.121 currently provides for safety zones for LPG vessels while at anchor in Rhode Island Sound, while transiting Narragansett Bay and the Providence River, and while LPG vessels are either moored at the Port of Providence LPG facility or at the manifolds connected at the Port of Providence LPG facility. However, in light of the current terrorist threats to national security, this zone is insufficient to protect LPG vessels while anchored in Rhode Island Sound, or while a vessel is transiting or moored in the Port of Providence. Moreover, this rulemaking is necessary to protect other high interest vessels not currently covered by 33 CFR 165.121.

This rulemaking makes permanent the temporary safety and security zones established on October 6, 2001 (66 FR 64144). That rule created temporary safety and security zones around high interest vessels in the Providence, Rhode Island Captain of the Port Zone, identical to those being made permanent in this rulemaking. That original temporary rule was effective until June 15, 2002. The temporary rulemaking was extended until September 15, 2002, by a notice in the **Federal Register** dated May 17, 2002 (67 FR 35035). A notice of proposed rulemaking was published on June 20, 2002 (67 FR 41911). The comment period for that notice ended August 5, 2002.

The safety and security zones are needed to protect high interest vessels, their crews, and the public, from harmful or subversive acts, accidents or other causes of a similar nature. The safety and security zones have identical boundaries, as follows: (1) All waters of Rhode Island Sound within a ½ mile radius of any high interest vessel while the vessel is anchored within ½ mile of the position Latitude 41°25' N, Longitude 71°23' W in the Narragansett

Bay Precautionary Area; (2) all waters of Rhode Island Sound, Narragansett Bay, the Providence and Taunton Rivers 2 miles ahead and 1 mile astern and extending 1000 yards on either side of any high interest vessel transiting Narragansett Bay, or the Providence and Taunton Rivers; (3) all waters and land within a 1000-yard radius of any high interest vessel moored at a waterfront facility in the Providence Captain of the Port zone.

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 or designated Coast Guard representative on-scene. 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. The public will be made aware of dates and times during which the safety and security zones will be enforced through a Marine Safety Information Radio Broadcast on channel 22 (157.1 MHz). 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 10 years and a fine of not more than \$100,000), in addition to liability against the offending vessel, and license sanctions. This regulation is proposed under the authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

## Discussion of Comments and Changes

For clarification purposes only, we have amended the regulation by adding a definition of high interest vessels to the regulatory text. This does not change the regulation, as this definition was included in the Background and Purpose section of the NPRM for this rulemaking. A definition has been added to clarify the application of this regulation.

## 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 Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The sizes of the zones are the minimum necessary to provide adequate protection for high interest vessels and their crews, other vessels operating in the vicinity of high interest vessels and their crews, adjoining areas, and the public.

The entities most likely to be affected are commercial vessels transiting the main ship channel en route the upper Providence River and Taunton River and pleasure craft engaged in recreational activities and sightseeing. The safety and security zones prohibit any commercial vessels from meeting or overtaking a high interest vessel in the main ship channel, effectively prohibiting use of the channel. However, the zones are only effective during the vessel transits, which will last for approximately 3 hours. In addition, vessels are able to safely transit around the zones while a vessel is moored or at anchor in Rhode Island Sound. Additionally, the Captain of the Port may allow persons to enter the zone on a case-by-case basis.

## 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 and 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 the main ship channel in Narragansett Bay, Providence River, and the Taunton River at the same time as high interest vessels, and vessels transiting in the vicinity of moored high interest vessels. The safety and security zones will not have a significant economic impact on a substantial number of small entities for several reasons: Small vessel traffic can pass safely around the zones and

vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the safety and security zones to engage in these activities. When a high interest vessel is at anchor, vessel traffic will have ample room to maneuver around the safety and security zones. The outbound and inbound transit of a high interest vessel will each last a maximum of three hours. Although this regulation prohibits simultaneous use of the channel, this prohibition is of short duration and marine advisories will be issued prior to transit of a high interest vessel. While a high interest vessel is moored, commercial traffic and small recreational traffic will have an opportunity to coordinate movement through the safety and security zones with the patrol commander. Before the effective period, we will issue maritime advisories widely available to users of the area.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness 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. If your small business or organization would be affected by this rule and you have questions concerning its provisions or options for compliance, please call LT David C. Barata, telephone (401) 435–2335. 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 collection of information requirements 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 this rule 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 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 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 implementing 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. 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 set out 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 and 160.5; 49 CFR 1.46.

2. Revise § 165.121 to read as follows:

#### § 165.121 Safety and Security Zones: High Interest Vessels, Narragansett Bay, Rhode Island.

(a) *Location.* (1) All waters of Rhode Island Sound within a ½ mile radius of any high interest vessel while the vessel is anchored within ½ mile of the point Latitude 41°25' N, Longitude 71°23' W in the Narragansett Bay Precautionary Area.

(2) All waters of Rhode Island Sound, Narragansett Bay, the Providence and Taunton Rivers 2 miles ahead and 1 mile astern, and extending 1000 yards on either side of any high interest vessel transiting Narragansett Bay, or the Providence and Taunton Rivers.

(3) All waters and land within a 1000-yard radius of any high interest vessel moored at a waterfront facility in the Providence Captain of the Port zone.

(b) *High Interest Vessels defined.* For purposes of this section, high interest vessels operating in the Providence Captain of the Port zone include the following: barges or ships carrying liquefied petroleum gas (LPG), liquefied natural gas (LNG), chlorine, anhydrous ammonia, or any other cargo deemed to be high interest by the Captain of the Port, Providence.

(c) *Regulations.* (1) Entry into or movement within these zones, including below the surface of the water, during times in which high interest vessels are present and the zones are enforced is prohibited unless authorized by the COTP Providence or authorized representative.

(2) The general regulations covering safety and security zones in §§ 165.23 and 165.33, respectively, of this part apply.

(3) All persons and vessels shall comply with the instructions of the COTP, and the designated on-scene U.S. Coast Guard personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: August 19, 2002.

**Mary E. Landry,**

*Captain, Coast Guard, Captain of the Port, Providence, Rhode Island.*

[FR Doc. 02-22339 Filed 8-30-02; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2002-0217; FRL-7196-6]

#### Lactic acid, ethyl ester and Lactic acid, n-butyl ester; Exemptions from the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes two exemptions from the requirement of a tolerance for residues of lactic acid, ethyl ester and lactic acid, n-butyl ester when used in pesticide formulations. PURAC America, Inc. submitted two petitions to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996, requesting these exemptions from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of lactic acid, ethyl ester and lactic acid, n-butyl ester.

**DATES:** This regulation is effective September 3, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0217, must be received on or before November 4, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by

mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0217 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-305-6304; e-mail address: boyle.kathryn@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

###### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the

"**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0217. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

##### II. Background and Statutory Findings

In the **Federal Register** of April 12, 2000 (65 FR 19759) (FRL-6498-8), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104-170), announcing the filing of pesticide tolerance petitions (PP 5E4510 and 5E4515) by PURAC America, Inc., Barclay Boulevard, Lincolnshire Corporate Center, Lincolnshire, IL 60069. This notice included a summary of the petitions prepared by the petitioner PURAC. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.1001(c) and (e) be amended by establishing an exemption from the requirement of a tolerance for residues of ethyl lactate (CAS Reg. No. 97-64-3), also known as lactic acid, ethyl ester, and butyl lactate (CAS Reg. No. 138-22-7), also known as lactic acid, n-butyl ester.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA