

## Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and have determined that this rule does not have sufficient federalism implications for Federalism under that order.

## Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government's having first provided the funds to pay those costs. This rule will not impose an Unfunded Mandate.

## 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 section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

## Protection of Children

The Coast Guard has 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.

## Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

## Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

## Energy Effects

The Coast Guard has 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 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

## Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

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.T01–164 to read as follows:

**§ 165.T01–164 Coast Guard Force Protection for Coast Guard Group Southwest Harbor, Maine, Station Jonesport, Maine and Station Rockland, Maine.**

(a) *Location.* The following are safety and security zones: (1) All the waters off of Station Jonesport, Jonesport, Maine, within a 75-yard radius of 44° 31' 38" N, 067° 36' 58" W; (2) all the waters of Southwest Harbor, Maine off of Coast Guard Base Southwest Harbor, (i) within a 60-yard radius of 44° 16' 30" N, 068° 18' 45" W; and (ii) within a 20-yard radius of 44° 16' 30" N, 068° 18' 47" W; and (3) all the waters of Rockland Harbor, Maine off of Station Rockport (i) within a 75-yard radius of 44° 06' 16" N, 069° 06' 04" W; and (ii) within a 60-yard radius of 44° 06' 19" N, 069° 06' 07" W.

(b) *Effective date.* This section is effective from 6 p.m. September 19, 2001 until March 17, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within this zone is prohibited unless previously authorized by the Captain of the Port Portland.

(2) All persons and vessels shall comply with the instructions of the

Captain of the Port or the designated on-scene U.S. Coast Guard patrol 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. Emergency response vessels are authorized to move within the zone, but must abide by restrictions imposed by the Captain of the Port.

(3) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Portland or his authorized patrol representative.

Dated: September 19, 2001.

**M. P. O'Malley,**

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

[FR Doc. 01–24538 Filed 10–1–01; 8:45 am]

**BILLING CODE 4910–15–U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[CGD01–01–175]

RIN 2115–AA97

### Safety and Security Zones; Naval Force Protection, Bath Iron Works, Kennebec River, Bath, Maine

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard establishes temporary safety and security zones in the waters of the Kennebec River extending out to 400-feet into the Kennebec River from the Bath Iron Works facility, Bath, Maine. This action is necessary to ensure public safety and prevent sabotage or terrorist acts. Entry into these safety and security zones is prohibited unless authorized by the Captain of the Port.

**DATES:** This section is effective from 12:01 a.m. September 21, 2001 to 11:59 p.m. December 31, 2001.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) W. W. Gough, Chief, Ports and Waterways Safety Branch, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780–3251.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

As authorized by 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Under 5 U.S.C 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the catastrophic nature and extent of damage realized from the aircraft crashes into the World Trade Center towers, this rulemaking is urgently necessary to protect the national security interests of the United States against future potential terrorist strikes against governmental targets. Any delay in the establishment and enforcement of this regulation's effective date would be unnecessary and contrary to public interest and national security since immediate action is needed to protect the United States Naval vessels being built and repaired at the Bath facility. Any delay in implementing this regulation would be contrary to the public interest since immediate action is needed to safeguard the Naval vessels moored at the Bath Iron Works, Naval personnel, the maritime community and the public from sabotage or other subversive acts, accidents, or other causes of a similar nature.

**Background and Purpose**

A safety zone was established by the Captain of the Port, Portland, Maine, on June 15, 2001, and published in the **Federal Register** (66 FR 34367–34369). That safety zone prohibited entry into all waters of the Kennebec River within a 400-foot radius of Bath Iron Works, Bath, Maine from 7 a.m. June 16, 2001 through 12 p.m. September 30, 2001. On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon on the same day. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. Due to these heightened security concerns, safety and security zones are prudent for an additional period of time, and for a larger area than previously covered. The safety and security zones will occur from 12:01 a.m. September 21, 2001 to 11:59 p.m. December 31, 2001 at Bath Iron Works, Bath, Maine. This regulation establishes safety and security zones having identical boundaries in the waters of the Kennebec River extending out to 400

feet from Bath Iron Works facility. This safety and security zone is required to protect the Naval personnel, facilities, the public and the surrounding area from sabotage, terrorism, subversive acts, accidents, or other events of a similar nature.

**Regulatory Evaluation**

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary for the following reasons: this safety and security zone involves only a portion of the Kennebec River, allowing vessels to safely navigate around the safety and security zone without delay.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) 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.

**Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and have determined that this rule does not have sufficient federalism implications for Federalism under that order.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government's having first provided the funds to pay those costs. This rule will not impose an Unfunded Mandate.

**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 section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

**Protection of Children**

The Coast Guard has 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.

**Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

**Environment**

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

**Energy Effects**

The Coast Guard has 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 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

#### Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

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.T01–175 to read as follows:

#### **§ 165.T01–175 Naval Force Protection, at Bath Iron Works, Kennebec River, Bath, Maine.**

(a) *Location.* The following is a safety and security zone: all waters off of Bath Iron Works facility, Bath, Maine extending 400-feet out into the Kennebec River.

(b) *Effective date.* This section is effective from 12:01 a.m. September 21, 2001 to 11:59 p.m. December 31, 2001.

(c) *Regulations.* (1) The general regulations contained in § 165.23, § 165.33 and the regulations specifically relating to safety zones and security zones in §§ 165.20 and 165.30 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene personnel. Upon being hailed by designated personnel via siren, radio, flashing light, bullhorn or other means, the operator of the vessel shall proceed as directed.

(3) No person may swim upon or below the surface of the water within the boundaries of the safety and security zone unless previously authorized by the Captain of the Port, Portland or his authorized patrol representative.

Dated: September 21, 2001.

**M.P. O'Malley,**

*Commander, Coast Guard, Captain of the Port.*

[FR Doc. 01–24536 Filed 10–1–01; 8:45 am]

**BILLING CODE 4910–15–U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CCGD08–01–036]

RIN 2115–AA97

#### **Security Zone; DOD Barge Flotilla, Cumberland City, TN to Alexandria, LA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone around a barge flotilla carrying military equipment on the waters of the Cumberland River, the Ohio River, the Lower Mississippi River, and the Red River. The United States Army is shipping military equipment on board a barge flotilla, requiring a 100-yard security perimeter commencing in Cumberland City, TN on and securing upon offloading of cargo at Alexandria, LA. This zone is needed to safeguard the shipment from sabotage or other subversive acts in light of recent terrorist activity in the United States. Navigation within this zone will be prohibited unless specifically authorized by the Eighth Coast Guard District Commander's on-scene representative.

**DATES:** This rule is effective from 6 p.m. (CDT) September 20, 2001 until 11:59 p.m. (CDT) on September 30, 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 CGD08–01–036 and are available for inspection or copying at Commander Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans, LA 70130, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Karrie C. Trebbe, Eighth Coast Guard District Marine Safety Division, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, 504–589–6271.

#### **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 a NPRM. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect military assets.

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**. Due to security reasons and complex planning and coordination requirements, the Coast Guard was not able to obtain details of the event thirty days prior to its occurrence.

##### **Background and Purpose**

The Coast Guard is establishing a security zone with a 100-yard security perimeter around an Army barge flotilla on the waters of the Cumberland River from mile 108.5 to 0.0, the Ohio River mile 923.0 to 981.0, the Lower Mississippi River mile 953.5 to 310.5, and the Red River mile 00.0 to 85.0. The United States Army is shipping military equipment onboard the barge flotilla commencing in Cumberland City, TN at 6 p.m. on September 20, 2001 and securing upon offloading at Alexandria, LA. The zone will be in effect during the flotilla's entire transit and while the flotilla is moored at Alexandria, LA with cargo on deck. This zone is needed to safeguard the Army shipment from sabotage or other subversive acts, accidents, or other causes of a similar nature. The protection of this Army shipment is a matter of national security. Therefore, the Coast Guard has determined it is necessary to prevent access into this zone in order to ensure this equipment safely reaches its destination. Entry into this zone will be prohibited unless authorized by the Eighth Coast Guard District Commander's on-scene representative. The on-scene representative will be located on a Coast Guard vessel accompanying the flotilla and may be contacted on VHF channel 13 or 16.

##### **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 is unnecessary. This regulation will only be in effect for a short period of time. The impacts on routine navigation are expected to be minimal.