

power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of these regulations 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 written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this proposed 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:

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, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01-170 to read as follows:

§ 165.T01-170 Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Location.* The following area has been declared both a safety zone and a security zone: starting on the south shore of Long Island at 40°35.4'N, 073°46.6'W and proceeds southeasterly along a line bearing 127.5°T to 38°28'N, 070°11'W; thence northwesterly along a line bearing 122°T from the New Jersey coast at 40°18'N; thence west along 40°18'N to 074°30.5'W; thence

northwesterly to the intersection of the New York-New Jersey-Pennsylvania boundaries at Tri-state; thence northwesterly along the east bank of the Delaware River to 42°00'N, thence east to 074°39'W; thence north to the Canadian border; thence easterly along the Canadian Border to the northeast corner of the Orleans county line in Vermont; thence following the eastern and southern boundaries of Orleans, Franklin, Chittenden, Addison, and Rutland Counties to the Vermont-New York boundary; thence southerly along the New York boundary to 41°01.5'N, 073°40'W; thence southerly to the southern shore of Manursing Island at 40°58'N, 073°40'W; thence southeasterly to 40°52.5'N, 073°37.2'W; thence southerly to 40°40'N, 073°40'W; thence southwesterly to the point of origin.

(b) *Effective dates.* This section is effective from September 12, 2001 through September 14, 2001.

(c) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless previously authorized by the Captain of the Port New York or his authorized patrol representative. Emergency response vessels are authorized to move within the zones, but must at all times keep the Captain of the Port apprised of intended movements within the port, and must abide by restrictions imposed by the Captain of the Port as necessary to accomplish the purposes of this rule.

(2) 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 New York or his authorized patrol representative.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, and the designated on-scene U.S. Coast Guard patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(4) Exact locations and restrictions within these boundaries will be announced via Broadcast Notice to Mariners and facsimile, as appropriate, until the need to enforce such zones is no longer necessary.

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

Dated: September 12, 2001.

R.E. Bennis,

Rear Admiral, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01-25292 Filed 10-5-01; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-01-102]

RIN 2115-AA97

Safety and Security Zones; Port of New York/New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: As a result of the several apparent terrorist attacks September 11, 2001 on the World Trade Center, the Pentagon, the State Department, and other governmental installations, the Coast Guard is establishing temporary safety and security zones within the entire bounds of the Port of New York, which will be enforced effective immediately. The safety and security zones are needed to safeguard the public, vessels, and vessel crews from further consequences of the aforementioned attacks, and from potential future sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into or movement within these zones by any vessel of any description whatsoever, except emergency response vessels, without the express authority of the Captain of the Port, New York, or his authorized patrol representative is strictly prohibited.

DATES: This rule is effective from September 11, 2001, through September 14, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection and 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 M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation, and good cause exists for making it effective less

then 30 days after publication in the **Federal Register**. Good cause also exists for not publishing a NPRM for this regulation. Due to the catastrophic nature and extent of damage realized from the aircraft crashes into the two towers of the World Trade Center, this rulemaking is urgently necessary to protect the national security interests of the United States against further adverse consequences of these and future potential terrorist strikes within the Port of New York/New Jersey. Any delay in the establishment and enforcement of this regulation's effective date would be clearly contrary to public interest since immediate action is needed to protect the public and the United States' interests against similar acts of terrorism.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center, located within the Port of New York/New Jersey, were destroyed as a result of two commercial airliner crashes that can only be explained as resulting from terrorist attacks. In addition to the two airliner crashes into the World Trade Center, two other commercial airliners were also apparently hijacked and intentionally crashed, one into the United States Pentagon and another in a rural area of Pennsylvania. These acts were unforeseen and accomplished without warning.

The safety and security zones are needed to protect and safeguard the public, vessels, and vessel crews from further consequences of the aforementioned attacks, and from future sabotage or other subversive acts, accidents, or other causes of a similar nature. The safety and security zones have identical boundaries. All persons, other than those approved by the Captain of the Port or his authorized patrol representative are prohibited from entering into or moving within the zones without the prior approval of the Captain of the Port. Emergency response vessels must keep the Captain of the Port apprised of intended movements while working within the port. The zones encompass the area south of a line 500 yards north of the George Washington Bridge on the Hudson River; south of a line drawn 500 yards north of the Triborough Bridge on the East River; east of a line from Constable Hook Front Range Light (LLNR 37250) to 40°38'55.5"N, 074°05'05.7"W (NAD 1983), on St. George, Staten Island. The public will be made aware of the existence of these safety and security zones via Broadcast Notice to Mariners made from U.S. Coast Guard Activities New York.

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 duration and sizes of the zones are the minimum necessary to provide adequate protection for 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 Mike Day, telephone (718) 354–4012. 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 comments 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 (44 U.S.C. 3501 *et seq.*).

Federalism

We have analyzed this action under Executive Order 13132, and have determined that this rule does not have federalism implications under that order.

Unfunded Mandates

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 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 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 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 considered the environmental impact of these regulations 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 written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this proposed 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:

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, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–102 to read as follows:

§ 165.T01–102 Safety and Security Zones: Port of New York, New York/New Jersey.

(a) *Location.* The following area within the Port of New York, New York/New Jersey has been declared both a safety zone and a security zone: the area south of a line 500 yards north of the George Washington Bridge on the Hudson River; south of a line drawn 500 yards north of the Triborough Bridge on the East River; east of a line from Constable Hook Front Range Light (LLNR 37250) to 40°38'55.5"N 074°05'05.7"W (NAD 1983), on St. George, Staten Island.

(b) *Effective dates.* This section is effective from September 11, 2001 through September 14, 2001.

(c) Regulations.

(1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless previously authorized by the Captain of the Port New York or his authorized patrol representative. Emergency response vessels are authorized to move within the zones, but must at all times keep the Captain of the Port apprised of intended movements within the port, and must abide by restrictions imposed by the Captain of the Port as necessary to accomplish the purposes of this rule.

(2) 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 New York or his authorized patrol representative.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, and the designated on-scene U.S. Coast Guard patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

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

Dated: September 11, 2001.

R.E. Bennis,

Rear Admiral, U.S. Coast Guard, Captain of the Port.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–165]

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 14, 2001 through September 28, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD01–01–165 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

Pursuant to 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