

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 new collection of information 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 it 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 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

The Coast Guard has considered the environmental impact of this action and has determined under Figure 2-1, paragraph 32(e) of Commandant Instruction M16475.1D, that this rule is categorically excluded from further environmental documentation.

### 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 have 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 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.311 is revised to read as follows:

#### § 117.311 New Pass

The draw of the State Road 789 bridge, mile 0.05, at Sarasota, need only open on the hour, twenty minutes past the hour, and forty minutes past the hour from 7 a.m. to 6 p.m. From 6 p.m. to 7 a.m., the draw shall open on signal if at least 3 hours notice is given to the bridge tender. Public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property shall, upon proper signal, be passed at any time.

#### § 117.299 Longboat Pass (Removed)

Remove § 117.299.

Dated: December 1, 2001.

**James S. Carmichael,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 01-31174 Filed 12-17-01; 8:45 am]

BILLING CODE 4910-15-U

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[CGD01-01-206]

RIN 2115-AA97

#### Security Zone: Maine Yankee Nuclear Power Plant, Wiscasset, Maine

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone around the Maine Yankee Power Plant in Wiscasset, Maine, temporarily closing all land and waters surrounding Bailey Point and Foxbird Island. This security zone prohibits entry into or movement within a portion of the Back River and adjacent land areas and is needed to ensure public safety and prevent sabotage or terrorist acts. Entry into this security zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

**DATES:** This rule is effective from December 10, 2001 until June 15, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the

docket are part of docket CGD01-01-206 and 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**

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. On September 11, 2001, terrorist attacks in New York and Washington DC inflicted catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. The Maine Yankee Nuclear Plant is located on a peninsula, surrounded by water, exposing it to possible attack initiated from waters surrounding the power plant. Due to the catastrophic effect an exposure to radiation from the nuclear material stored at the plant would have on the surrounding area, this rulemaking is urgently required to prevent potential future terrorist strikes against the Maine Yankee Nuclear Power Plant. The delay inherent in the NPRM process is contrary to the public interest insofar as it may render people and facilities within and adjacent to the Maine Yankee Nuclear Power Plant property vulnerable to subversive activity, sabotage or terrorist attack.

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**. The measures implemented in this rule are intended to prevent possible terrorists attacks against the Maine Yankee Nuclear Power Plant, and are needed to protect the facility, persons at the facility, the public and the surrounding communities from potential sabotage or other subversive activity, sabotage and terrorists attacks, either from the water or by access to the facility by utilizing public trust lands between the low and high water tide lines. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest. This zone should have minimal impact on the users of Bailey Point,

Foxbird Island and the surrounding waters, as this zone only restricts movement adjacent to the Bailey Point, allowing vessels to pass safely outside the zones. Public notifications will be made to the maritime community via notice to mariners, marine information broadcasts and signs posted informing them of the boundaries of the zones.

**Background and Purpose**

In light of terrorist attacks on New York City and Washington DC on September 11, 2001 a security zone is being established to safeguard the Maine Yankee Nuclear Power Plant, persons at the facility, the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The Maine Yankee Nuclear Plant is located on a peninsula, surrounded by water, making it vulnerable to possible attack initiated from waters surrounding the power plant. The Maine Yankee Nuclear Power Plant presents a possible target of terrorist attack due to the catastrophic impact release of nuclear radiation would have on the surrounding area.

This rulemaking establishes a security zone in all land and waters surrounding Bailey Point and Foxbird Island within a zone beginning at position 43°57'23" N, 069°41'17" W then running southeasterly to 43°56'40" N, 069°41'40" W then running west to 43°56'40" N, 069°41'56" W then running north to 43°57'06" N, 069°41'56" W then running north-northeasterly to 43°57'21" N, 069°41'48" W then running north-northwesterly to 43°57'39" N, 069°41'52" W then south-southeasterly to the point of origin.

This rulemaking is necessary to provide complete protection of the waterfront areas of the Maine Yankee Nuclear Power Plant. This security zone prohibits entry into or movement within the specified areas. This security zone also closes all lands within the zone to prevent access along areas traditionally reserved for public use between the mean low water tide line and the mean high water tide line.

No person or vessel may enter or remain in the prescribed security zone at any time without the permission of the Captain of the Port, Portland, Maine. Each person or vessel in a security zone shall obey any direction or order of the Captain of the Port, Portland, Maine. The Captain of the Port, Portland, Maine 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, Portland, Maine. These regulations are issued under authority contained in 33 U.S.C. 1223, 1225 and 1226.

**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. The effect of this regulation will not be significant for several reasons: there is ample room for vessels to navigate around the zones in the Back River, notifications will be made to the local maritime community and signs will be posted informing the public of the boundaries of the zone.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard 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 a portion of the Back River. For the reasons enumerated in the Regulatory Evaluation section above, this security zone will not have a significant economic impact on a substantial number of small entities.

**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 offers to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or

organization is affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant (Junior Grade) Wade W. Gough, Marine Safety Office Portland, Maine, at (207) 780-3251. 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 Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### Federalism

The Coast Guard has analyzed this rule under Executive Order 13132 and has determined that this rule does not have 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 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 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 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.

### 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. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

### Energy Effects

We have 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 record keeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 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, 160.5; 49 CFR 1.46.

2. Add temporary section, 165.T01-206, to read as follows:

### § 165.T01-206 Security Zone; Maine Yankee Nuclear Power Plant, Wiscasset, Maine.

(a) *Location.* The following area is a security zone: All land and waters surrounding Bailey Point and Foxbird Island within a zone beginning at position 43°57'23" N, 069°41'17" W then running southeasterly to 43°56'40" N, 069°41'40" W then running west to 43°56'40" N, 069°41'56" W then running north to 43°57'06" N, 069°41'56" W then running north-northeasterly to 43°57'21" N, 069°41'48" W then running north-northwesterly to 43°57'39" N, 069°41'52" W then south-southeasterly to the point of origin.

(b) *Effective date.* This section is effective from December 10, 2001 until June 15, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Portland, Maine or 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.

(3) No person may enter the waters within the boundaries of the security zone unless previously authorized by the Captain of the Port, Portland, Maine or his authorized patrol representative.

(d) In addition to 33 U.S.C. 1231 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

Dated: December 7, 2001.

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

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

[FR Doc. 01-31172 Filed 12-17-01; 8:45 am]

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### FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 65

[Docket No. FEMA-D-7517]

### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the