

Dated: August 5, 2002.

Hector V. Barreto,
Administrator.

[FR Doc. 02-20357 Filed 8-12-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09-02-506]

RIN 2115-AA97

Security Zone: Lake Erie, Perry, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the Captain of the Port Cleveland zone for the Perry Nuclear Power Plant. This security zone is necessary to protect the Perry Nuclear Power Plant from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. This security zone is intended to restrict vessel traffic from a portion of Lake Erie.

DATES: This rule is effective from 10 a.m. August 1, 2002 until 10 a.m. October 1, 2002.

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 CGD09-02-506 and are available for inspection or copying at U.S. Coast Guard Marine Safety Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44114 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at (216) 937-0111.

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 an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Following the catastrophic nature and extent of damage realized from the aircraft flown into the World Trade Center towers, this rulemaking is urgently necessary to protect the national security interests of the United States against future potential terrorists

strikes against public and governmental targets. A similar attack was conducted against the Pentagon on the same day. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property.

On May 24, 2002 we published a notice of proposed rulemaking (NPRM) (67 FR 36554) giving the public the chance to comment on our proposal to make permanent a security zone adjacent to the Perry nuclear power plant. We anticipate this temporary final rule will shortly be removed by a final rule which will respond to any public comment received during the comment period for the NPRM.

Background and Purpose

A temporary security zone is necessary to ensure the security of the Perry nuclear power plant, as a result of the terrorist attacks on the United States on 11 September 2001. The security zone consists of all navigable waters of Lake Erie bound by a line drawn between the following coordinates beginning at 41° 48.187' N, 081° 08.818' W; due north to 41° 48.7' N, 081° 08.818' W; due east to 41° 48.7' N, 081° 08.455' W; due south to the south shore of Lake Erie at 41° 48.231' N, 081° 08.455' W; thence westerly following the shoreline back to the beginning. These coordinates are based upon North American Datum 1983 (NAD 83). Entry into, transit through or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Cleveland or his designated on-scene representative. The designated on-scene representative will be the Patrol Commander and may be contacted via VHF/FM Marine Channel 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).

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.

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 would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Cleveland (see **ADDRESSES**.)

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 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.

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.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that, under figure 2-1,

paragraph (34)(g) of Commandant Instruction M16475.1C, it 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 Subject 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 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. Add § 165.T09-506 to read as follows:

§ 165.T09-506 Security Zone; Lake Erie, Perry, OH.

(a) *Location:* The following area is a temporary security zone: all navigable waters of Lake Erie bound by a line drawn between the following coordinates beginning at 41° 48.187' N, 081° 08.818' W; due north to 41° 48.7' N, 081° 08.818' W; due east to 41° 48.7' N, 081° 08.455' W; due south to the south shore of Lake Erie at 41° 48.231' N, 081° 08.455' W; thence westerly following the shoreline back to the beginning.

(b) *Effective time and date.* This section is effective from 10 a.m. August 1, 2002 until 10 a.m. October 1, 2002.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Cleveland, or the designated on-scene representative. The designated on-scene representative will be the Patrol Commander who may be contacted on VHF-FM Channel 16.

(d) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: August 1, 2002.

L. W. Thomas,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-01-207]

RIN 2115-AA97

Security Zone; Seabrook Nuclear Power Plant, Seabrook, New Hampshire

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is extending the effective period for the Seabrook Nuclear Power Plant, Seabrook, New Hampshire Security Zone. This change will extend the effective period of this temporary final rule until November 15, 2002, allowing adequate time to continue with informal rulemaking to develop a permanent rule. This rule will continue to close certain land and water areas in the vicinity of the Seabrook Nuclear Power Plant.

DATES: The amendment to § 165.T01-207 in this rule is effective August 13, 2002. Section 165.T01-207, added at 66 FR 67487, December 31, 2002, effective December 7, 2001 until June 15, 2002, and extended in effect until August 15, 2002 at 67 FR 30807, May 8, 2002, as amended in this rule is extended in effect until November 15, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine 04101 between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) R. F. Pigeon, Port Operations Department, Marine Safety Office Portland, Maine at (207) 780-3251.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 31, 2001, the Coast Guard published a temporary final rule (TFR) entitled "Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire" in the **Federal Register** (66 FR 67487). The effective period for this rule was from December 7, 2001 until June 15, 2002. The effective period for this rule was extended until August 15, 2002 in a TFR of the same title published in the **Federal Register** on May 8, 2002 (67 FR 30807). We expected the extension of the temporary rule through August 15, 2002, would have provided us enough time to complete the rulemaking process for a