

readjusted the western boundary to allow these homeowners full access to their beachfront property, including use of recreational vessels off that beachfront property. The security zone is necessary to protect the Davis Besse Nuclear Power Plant from terrorist threats.

**DATES:** This rule is effective from April 2, 2002 through June 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** LT Herb Oertli, Chief of Port Operations, Marine Safety Office, 420 Madison Ave, Suite 700, Toledo, Ohio 43604; (419) 418-6050.

### Background and Purpose

The Coast Guard published a temporary final rule in the **Federal Register** on October 12, 2001, (66 FR 52038), to create a security zone in response to the September 11, 2001 terrorist attacks on the United States. We are changing the location of the western boundary of the security zone.

### Need for Correction

Since publication, Captain of the Port Toledo has learned that a western boundary located more easterly or closer to the nuclear plant would allow local home-owners full beach access, including by recreational vessel. This readjustment in no ways compromises the intent of the original security zone. The regulation was published in response to the terrorist's attacks on the World Trade Center and the Pentagon on September 11, 2001. The security zone is intended to protect the life, property, and national security of U.S. citizens. These factors were considered along with the impact on local homeowners and recreational vessels in reestablishing the boundaries of this security zone.

### Correction of Publication

In rule FR Doc. 01-25651, published on October 12, 2001, (66 FR 52038) make the following corrections. On page 52038, in the third column, lines 16-23, replace the sentence "The security zone consists of all navigable waters of Lake Erie within a line beginning from position 41°36.8' N, 083°06.2' W; north to 41°37.7' N, 083°06.0' W; east to 41°36.6' N, 083°03.7' W; south to 41°35.8' N, 083°04.0' W, back to the beginning point." and add, in it's place, the sentences "The boundary of the security zone commences at 41°36.3' N, 083°04.9' W; north to 41°37.0' N, 083°03.9' W; east to 41°35.9' N, 083°02.5' W; south-west to 41°35.4' N, 083°03.7' W; then back to the starting point 41°36.3' N, 083°04.9' W. These coordinates are based upon North

American Datum 1983." and on page 52039, in the third column, lines 24-31, remove the sentence "This security zone consists of all navigable waters of Lake Erie within a line beginning from position 41°36.8' N, 083°06.2' W; north to 41°37.7' N, 083°06.0' W; east to 41°36.6' N, 083°03.7' W; south to 41°35.8' N, 083°04.0' W, back to the beginning point." and add, in it's place, the sentence "The boundary of the security zone commences at 41°36.3' N, 083°04.9' W; north to 41°37.0' N, 083°03.9' W; east to 41°35.9' N, 083°02.5' W; south-west to 41°35.4' N, 083°03.7' W; then back to the starting point 41°36.3' N, 083°04.9' W."

Dated: April 3, 2002.

**David L. Scott,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Western Alaska-02-005]

RIN 2115-AA97

#### Safety Zone; Gulf of Alaska, Narrow Cape, Kodiak Island, AK

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. The zone is needed to protect persons and vessels operating in the vicinity of the safety zone during a rocket launch from the Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island facility. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Commander, Seventeenth Coast Guard District, the Coast Guard Captain of the Port, Western Alaska, or their on-scene representative.

**DATES:** This temporary final rule is effective from 11:30 a.m. April 22, 2002 through 5:30 p.m. May 15, 2002. The safety zone will be enforced each of these days only from 11:30 a.m. to 5:30 p.m.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are available for inspection and copying at Coast Guard Marine Safety Office Anchorage, 510 "L" Street, Suite 100, Anchorage, AK 99501. Normal Office hours are 7:30 a.m. to 4 p.m.,

Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LCDR Diane Kalina, Marine Safety Office Anchorage, at (907) 271-6700.

#### 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. Because the hazardous condition is expected to last for approximately 4 hours of each day for 24 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to protect human life and property from possible fallout from the rocket launch. The parameters of the zone will not unduly impair business and transits of vessels. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of each launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

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 process of scheduling a rocket launch is uncertain due to unforeseen delays such as weather that can cause cancellation of the launch. The Coast Guard attempts to publish a final rule as close to the expected launch date as possible, however, these attempts often prove futile due to frequent re-scheduling. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect human life and property from possible fallout from the rocket launch. This safety zone should have minimal impact on vessel transits and announcements via Broadcast Notice to Mariners will give vessels advance notice of the launch.

#### Background and Purpose

The Alaska Aerospace Development Corporation (AADC) will launch an unmanned rocket from their facility at Narrow Cape, Kodiak Island, Alaska sometime between 1:30 p.m. and 5:30 p.m. each day from April 22, 2002 through May 15, 2002. The safety zone

is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch.

The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which a launch schedule does not pose a hazard to mariners. Because the hazardous situation is expected to last for approximately 4 hours of each day for 24 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal.

#### Discussion of Rule

From the latest information received from the Alaska Aerospace Development Corporation, the launch window is scheduled for 4 hours each day from April 22, 2002 through May 15, 2002. The size of the safety zone has been set based upon the trajectory information in order to provide a greater safety buffer in the event that the launch is aborted shortly after take-off. The proposed safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area by a line drawn from a point located at 57°26'41" N, 152°22'23" W, then northeast to a point located at 57°27'49" N, 152°18'36" W, then east to a point located at 57°26'37" N, 152°09'20" W, then southeast to a point located at 57°21'07" N, 151°52'40" W, then south to a point located at 57°13'25" N, 152°01'18" W, then northwest to a point located at 57°20'34" N, 152°15'48" W, then northwest to a point located at 57°24'23" N, 152°22'24" W and back to the first point. All coordinates reference Datum: NAD 1983.

This safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch of the rocket. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

#### 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 cost and benefits under section 6(a)(3) of that

order. It has not been reviewed by the Office of Management and Budget 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 10(e) of the regulatory policies and procedures of DOT is unnecessary. Because the hazardous condition is expected to last for approximately 4 hours of each day for 24 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial traffic should be minimal. Before the effective period, we will issue maritime advisories widely available to users of the affected portion of the Gulf of Alaska. We believe there will be minimal economic impact on commercial traffic.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have significant economic impacts 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 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, anchor, or fish in a portion of the Gulf of Alaska off Ugak Island and Narrow Cape from 11:30 a.m. to 5:30 p.m. each day from April 22, 2002 through May 15, 2002. Because the hazardous situation, during the planned rocket launch hours, is expected to last for approximately 4 hours of each day for 24 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic should be minimal. Before the effective period, we will issue maritime advisories widely available to users of the affected portion of the Gulf of Alaska. We believe there will be minimal impact to 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.

#### 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 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 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 economically significant and does not cause 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 would 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 rule and concluded that, under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule is excluded under paragraph (34)(g) because it is a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

### ADDRESSES.

### 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 amends 33 CFR part 165 as follows:

### PART 165—[AMENDED]

1. The authority citation for part 165 continue to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.401-1, 6.04-6, 160.5; 49 CFR 1.46.

2. From April 22, 2002, through May 15, 2002, add temporary § 165.T17-008 to read as follows:

**§ 165.T17-008 Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island, AK: Safety Zones.**

(a) *Description.* This safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak

Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area bounded by a line drawn from a point located at 57°26'41" N, 152°22'23" W, then northeast to a point located at 57°27'49" N, 152°18'36" W, then east to a point located at 57°26'37" N, 152°09'20" W, then southeast to a point located at 57°21'07" N, 151°52'40" W, then south to a point located at 57°13'25" N, 152°01'18" W, then northwest to a point located at 57°20'34" N, 152°15'48" W, then northwest to a point located at 57°24'23" N, 152°22'24" W and back to the first point. All coordinates reference Datum: NAD 1983.

(b) *Enforcement periods.* The safety zone in this section will be enforced from 11:30 a.m. to 5:30 p.m. each day from April 22, 2002 through May 15, 2002.

(c) *Regulations.* (1) The Captain of the Port and the Duty Officer at Marine Safety Office, Anchorage, Alaska can be contacted at telephone number (907) 271-6700.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing the safety zone.

(3) The general regulations governing safety zones contained in § 165.23 apply. No person or vessel may enter or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port or his on-scene representative. The Captain of the Port, Western Alaska, or his on-scene representative may be contacted at the Kodiak Launch Complex via VHF marine channel 16.

Dated: April 11, 2002.

**W.J. Hutmacher,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

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### DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[CGD09-02-008]

RIN 2115-AA97

### Security Zones; Captain of the Port Chicago Zone, Lake Michigan

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary security zones

on the navigable waters of the Kankakee River, the Rock River, and Lake Michigan in the Captain of the Port Zone Chicago. These security zones are necessary to protect the nuclear power plants, water intake cribs, water filtration plants, and Navy Pier from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. These zones are intended to restrict vessel traffic from portions of the Kankakee and Rock River and Lake Michigan.

**DATES:** This rule is effective from 9 a.m. (local) March 25, 2002 until June 15, 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 CGD09-02-008 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, IL 60521 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Al Echols, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, IL 60521. The telephone number is (630) 986-2175.

### 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. 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 prevent possible loss of life or injury.

For the same reason, 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**.

### Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, and significant damage to the Pentagon. National security and intelligence officials warn that future terrorists attacks are likely.

This regulation establishes nine temporary security zones for the following facilities: (1) Navy Pier and the Jardine Water Filtration Plant; (2) Dresden Nuclear Power Plant Water Intake; (3) Donald C. Cook Nuclear Power Plant; (4) Palisades Nuclear