

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165****[COTP Charleston-01-097]****RIN 2115-AA97****Security Zones; Port of Charleston, SC****AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving security zone 100 yards around all tank vessels, passenger vessels and military pre-positioned ships entering or departing the Port of Charleston. We are also establishing temporary fixed security zones 100 yards around all tank vessels, passenger vessels and military pre-positioned ships when these vessels are moored in the Port of Charleston. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Charleston, South Carolina or his designated representative.

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 [COTP Charleston 1-097] and are available for inspection or copying at Marine Safety Office Charleston, 196 Tradd Street, Charleston, S.C. 29401 between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays. **DATES:** This regulation is effective from 4 a.m. on September 14, 2001 through 11:59 p.m. on October 15, 2001. **FOR FURTHER INFORMATION CONTACT:** LT James V. Mahney, Coast Guard Marine Safety Office Charleston, at (843) 724-7686.

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 a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, 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

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of Charleston, South Carolina, against tank vessels, cruise ships and military pre-positioned vessels entering, departing and moored within this port. There is a risk that subversive activity could be launched by vessels or persons in close proximity to the Port of Charleston, South Carolina against tank vessels, cruise ships and military pre-positioned vessels entering, departing and moored within these ports. Military pre-positioned ships are U.S. commercial ships on long-term charter to the Military Sealift Command. They are utilized to transport military equipment and cargo. There will be Coast Guard and local police department patrol vessels on scene to monitor traffic through these areas. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Charleston, South Carolina.

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), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include 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 because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can 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 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 requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

A rule has implication 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.

Environmental

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

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, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships 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 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), Reports and recordkeeping requirements, Security measures, Waterways.

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

PART 165—[AMENDED]

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. A new temporary § 165.T07–097 is added to read as follows:

§ 165.T07–097 Security Zone; Port of Charleston, South Carolina.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all tank vessels, passenger vessels and military pre-positioned ships during transits entering or departing the port of Charleston, South Carolina. Temporary fixed security zones are established 100 yards around all tank vessels, passenger vessels and military pre-positioned ships docked in the Port of Charleston, South Carolina.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

(c) *Dates.* This section becomes effective at 4 a.m. on September 14, 2001 and will terminate at 11:59 p.m. on October 15, 2001.

Dated: September 13, 2001.

G. W. Merrick,

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

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–128]

RIN 2115-AA97

Security Zone; Saint Lawrence River, Massena, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing United States navigable waters of the St. Lawrence River in the vicinity of the Moses-Saunders Power Dam. The security zone is necessary to

prevent damage to the dam. Unauthorized entry into this security zone is prohibited.

DATES: This rule is effective from September 12, 2001, through 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 [CGD09–01–128] and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Buffalo, 1 Furhmann Blvd., Buffalo, New York 14203, between 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant David Flaherty, U. S. Coast Guard Marine Safety Office Buffalo, (716) 843–9574.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. The Coast Guard for good cause finds that, under 5 U.S.C. 553(b)(B) and (d)(3), notice and public comment on the rule before the effective date of the rule and advance publication are impracticable and contrary to public interest. Immediate action is necessary to ensure the safety of life, property, the environment, as well as safe passage for vessels transiting this area. The conduct of notice and comment rulemaking proceedings and compliance with advance notice requirements present significant public safety concerns that outweigh the public interest in compliance with these provisions. Public rulemaking proceedings and advance publication could provoke consequences that would pose a risk of harm to the public, military personnel, and law enforcement personnel charged with enforcement of the security zone. This regulation is geographically limited and in effect for such limited duration that it meets the needs of national security with a minimal burden on the public.

Background and Purpose

This security zone is required to ensure the security of the Moses-Saunders Power Dam as a result of the terrorist attacks on the United States on September 11, 2001. Pursuant to this regulation, no vessel or person will be allowed to enter, transit through, or anchor in the security zone unless specifically authorized by the District Commander, the Captain of the Port Buffalo (COTP), or one of the Captain of the Port's designated representatives. The Captain of the Port or one of his