

## 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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**BILLING CODE 4910-15-P**

## 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 Fuhmann 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

designated representatives can be reached on Marine Channel 16.

This security zone is established pursuant to the authority of Subpart D of part 165 of Title 33 of the Code of Federal Regulations and the Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including subparts 6.01 and 6.04 or part 6 Title 33 of the Code of Federal Regulations. See Executive Order 10173, as amended. The security zone is needed to protect the Moses-Saunders Power Dam on the St. Lawrence River. This zone in Massena, New York, encompasses United States navigable waters of the St. Lawrence River from the point 45°00.3' N, 74°48.2' W; east to the international border at 45°00.5' N, 74°47.9' W; then southeast along the international border to 45°00.3' N, 74°47.6' W; along the international border to 45°00.3' N, 74°47.4' W; southwest to 44°00.0' N, 74°47.8' W; northwest to 45°00.2' N, 74°48.0' W; back to starting point 45°00.3' N, 74°48.2' W. (NAD 83).

Vessels or persons violating this section are subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel, a monetary penalty of not more than \$250,000, and imprisonment for not more than 10 years.

#### Regulatory Evaluation

This temporary 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. 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 security zone covers a vital portion of the St. Lawrence River transited by commercial vessels and is being created to protect the Moses-Saunders Power Dam. In addition, the security zone is necessary to ensure the safety of land and adjacent waterfront facilities. The Coast Guard does not foresee any interruption to the passage of vessels through this area. While the vessels will need authorization to transit the zone, the Coast Guard expects this not to interfere with or delay their passage.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard considered whether this rule will have a significant impact on a substantial number of small businesses and not-for-

profit organizations that are not dominant in their respective fields, and government jurisdictions with populations less than 50,000.

The Coast Guard certifies under section 605 (b) that this temporary final 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 the St. Lawrence River in the vicinity of the Moses-Saunders Power Dam.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic will be allowed to pass through the zone with the permission of the COTP or his designated on scene representative.

#### 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 this rule so that they can better evaluate its effectiveness and participate in the rulemaking process. If your small business or organization is affected by this rule, and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

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 contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have 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 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 affect 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 M16475.1D, 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 Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting 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.T09-103 is added to read as follows:

**§ 165.T09-103 Security Zone: St. Lawrence River, Massena, New York.**

(a) *Location.* The following area is designated a security zone: all waters of the St. Lawrence River encompassed by the points from 45°00.3' N, 74°48.2' W; east to the international border at 45°00.5' N, 74°47.9' W; then southeast along the international border to 45°00.3' N, 74°47.6' W; along the international border to 45°00.3' N, 74°47.4' W; southwest to 44°00.0' N, 74°47.8' W; northwest to 45°00.2' N, 74°48.0' W; back to starting point 45°00.3' N, 74°48.2' W. (NAD 83).

(b) *Effective dates.* This section is effective from September 12, 2001, through June 15, 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, Buffalo, or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF-FM Channel 16.

Dated: September 12, 2001.

**S.D. Hardy,**

*Commander, U.S. Coast Guard, Captain of the Port Buffalo, NY.*

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR PART 165**

[CGD09-01-127]

RIN 2115-AA97

**Security Zone; Snell and Eisenhower Locks, St. Lawrence Seaway, Massena, New York**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a security zone covering a portion of the St. Lawrence Seaway and adjacent land, including waterfront facilities, from a line approximately one-half mile east of the Snell Lock to a line approximately one mile west of the Eisenhower Lock, including all waters of the Wiley-Dondero Canal between the locks, in Massena, New York. No portion of the Grasse River is included in the zone. The security zone is necessary to prevent damage to the Snell and Eisenhower locks. 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 [CGD09-01-127] 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 is in effect for such a limited duration so as to meet the needs of national security while presenting a minimal burden on the public.

**Background and Purpose**

This security zone is required to ensure the security of the Snell and Eisenhower locks as a result of the terrorist attacks on the United States on September 11, 2001. Use of these locks is vital to national security. 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 designated representatives can be reached on Marine Channel 16.

The security zone encompasses the area beginning at a line drawn from 44°59.17' N, 74°46.01' W; to 44°59.49' N, 74°46.01' W. These coordinates are on opposite sides of the Wiley-Dondero Canal 100 yards inland from the shoreline. The security zone then proceeds in a westerly direction, encompassing all waters in the canal and land 100 yards inland from the shoreline, along the Wiley-Dondero Canal past the Snell and Eisenhower Locks, to a line drawn from 44°58.75' N, 74°52.35' W; to 44°58.14' N, 74°52.28' W (NAD 83). These coordinates are on opposite sides of the Wiley-Dondero Canal 100 yards inland from the shoreline. The security zone does not include any portion of the Grasse River.

This security zone is established pursuant to the authority of Subpart D of part 165 of Title 33 of the Code of Federal Regulations and the Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including subparts 6.01 and 6.04 or part 6 Title 33 of the Code of Federal Regulations. See Executive Order 10173, as amended. The security zone is needed to protect persons, transiting vessels, adjacent waterfront facilities, and the adjacent land of the St. Lawrence River from a line approximately one-half mile east of the Snell Lock to a line approximately one mile west of the Eisenhower Lock, including all waters of the Wiley-