

with Indian Tribal Governments, because it would not have a substantial direct affect 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.

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

#### 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

Power Plant; (5) Byron Nuclear Power Plant; (6) Zion Nuclear Power Plant; (7) 68th Street Water Intake Crib; (8) Dever Water Intake Crib; and (9) 79th Street Water Filtration Plant.

These security zones are necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Chicago, or his authorized representative, are prohibited from entering or moving within the zones with those exceptions described below. The Captain of the Port Chicago may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. The Captain of the Port Chicago's on-scene representative will be the patrol commander. In addition to publication in the **Federal Register**, the public will be made aware of the existence of these security zones, their exact locations, and the restrictions involved via Broadcast Notice 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 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 10(e) of the regulatory policies and procedures of DOT is unnecessary.

#### 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.

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Recreational

boaters in portions of the Illinois River and Des Plaines River will be impacted, however recreational traffic in those areas is historically quite low. Commercial river traffic on the Illinois and Des Plaines River will be unimpeded. The Captain of the Port Chicago will generally permit those U.S. Coast Guard certificated passenger vessels that normally load and unload passengers at the Navy Pier to regularly operate in the zone. However, should the Captain of the Port Chicago determine it is appropriate, he will require even those U.S. Coast Guard certificated passenger vessels that normally load and unload passengers at the Navy Pier to request permission before leaving or entering the security zones. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before transiting the security zone. This rule will not obstruct the regular flow of traffic and will allow vessel traffic to pass around the security zone.

#### 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. 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

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) 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 proposed rule would 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.

#### 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

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

#### Energy Effects

We have analyzed this proposed 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 discussed 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, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09—002 is added to read as follows:

##### § 165.T09—002 Security Zones; Captain of the Port Chicago Zone, Lake Michigan.

(a) *Location.* The following areas are security zones. All coordinates are based upon North American Datum 1983.

(1) All waters between the Navy Pier and the Jardine Water Filtration Plant shoreward of a line starting at the southeast corner of the Jardine Water Filtration Plant at 41°53'36" N, 87°36'17" W, and ending at the northeast corner of the Navy Pier at 41°53'33" N, 87°35'55" W, and shoreward of a line starting at the southeast corner of the Navy Pier at 41°53'29" N, 87°35'55" W, thence to the east end of Dime Pier at 41°53'23" N, 87°35'58" W, thence along the south side of Dime Pier to the west end of Dime Pier at 41°53'23" N, 87°36'29" W thence southeast to the corner of the seawall at 41°53'22" N, 87°36'28" W;

(2) All waters in the vicinity of the Dresden Nuclear Power Plant south of a line starting at the Illinois River shore at approximate position 41°23'45" N, 88°16'18" W, thence east to shore at approximate position 41°23'39" N, 88°16'09" W;

(3) All waters of Lake Michigan around the Donald C. Cook Nuclear Power Plant water intakes within a line starting at the shoreline at 41°58.656' N, 86°33.972' W, thence northwest to 41°58.769' N, 86°34.525' W, thence southwest to 41°58.589' N, 86°34.591' W, thence southeast to the shoreline at 41°58.476' N, 86°34.038' W;

(4) All waters of Lake Michigan around the Palisades Nuclear Power Plant within a line starting at the shoreline in approximate position 42°19'02" N, 86°19'05" W, thence northwest to 42°20'10" N, 86°20'01" W, thence northeast to 42°19'43" N, 86°19'52" W, thence to the shoreline at 42°19'26" N, 86°18'55" W;

(5) All waters of the Rock River within a 100-yard radius of the Byron Nuclear Power Plant; with its center in approximate position 42°05'01" N, 89°19'27" W;

(6) All waters 100 yards in all directions of the 68th Street Crib, with its center in approximate position 41°47'10" N, 87°31'51" W;

(7) All waters 100 yards in all directions of the Dever Crib; with its center in approximate position 41°54'55" N, 87°33'20" W;

(8) All waters of Lake Michigan around the Zion Nuclear Power Plant within a line starting from the shoreline in approximate position 42°26'36" N, 87°48'03" W, thence southeast to 42°26'20" N, 87°47'35" W, thence northeast to 42°26'53" N, 87°47'22" W, thence to the shoreline at 42°27'06" N, 87°48'00" W;

(9) All waters of Lake Michigan within an arc of a circle with a 100-yard radius centered on the 79th Street Water Filtration Plant, approximate position 41°45'30" N, 87°33'32" W.

(b) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago. Section 165.33 also contains other general requirements.

(2) The Captain of the Port Chicago will normally permit those U. S. Coast Guard certificated passenger vessels that normally load and unload passengers at Navy Pier to operate in the zone. However, should the Captain of the Port Chicago determine it is appropriate, he will require even those U. S. Coast Guard certificated passenger vessels that normally load and unload passengers at Navy Pier to request permission before leaving or entering the security zone. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before transiting the security zone. This rule will not obstruct the regular flow of traffic and will allow vessel traffic to pass around the security zone.

(3) All persons and vessels shall comply with the instruction of the Captain of the Port Chicago or the designated on-scene U.S. Coast Guard patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S.

Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Emergency response vessels are authorized to move within the zones.

(4) Persons desiring to transit the area of these security zones may contact the Captain of the Port at telephone number (630) 986-2175 or on VHF channel 16 (121.5 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: March 25, 2002.

**R.E. Seebald,**

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

[FR Doc. 02-9939 Filed 4-22-02; 8:45 am]

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#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 46

#### RIN 2900-AJ76

#### Policy Regarding Participation in National Practitioner Data Bank

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document amends our regulations regarding reporting of health care practitioners to the National Practitioner Data Bank (NPDB). We are amending the provisions concerning malpractice payment reporting by delegating the underlying decision-making to malpractice payment review panels; by delegating the actual reporting authority to facility directors and the Chief Patient Care Services Officer; by establishing new procedures for obtaining information from affected health care practitioners and others; and by establishing medical reporting criteria for licensed trainees and supervisory health care professionals. We also are amending the regulations concerning malpractice payment reporting and clinical privileges actions reporting by stating that reporting may not be the subject of negotiated settlements and that independent contractors acting on behalf of the Department of Veterans Affairs (VA) are subject to the NPDB reporting provisions. These amendments are necessary to make the reporting process more efficient and fair and to ensure that reporting is accomplished in