

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, 160.5; 49 CFR 1.46.

2. In § 165.T09–110, paragraph (b) is revised to read as follows:

§ 165.T09–110 Security Zone; Lake Michigan, Point Beach, WI.

* * * * *

(b) *Effective time and date.* This section is effective from September 28, 2001, through August 1, 2002.

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Dated: May 31, 2002.

M.R. DeVries,

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

[FR Doc. 02–15130 Filed 6–12–02; 12:40 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD09–01–138]

RIN 2115–AA97

Security Zone; Lake Michigan, Kewaunee Nuclear Power Plant

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is revising the effective period for a temporary security zone in the Captain of the Port Milwaukee zone for the Kewaunee Nuclear Power Plant. This security zone is necessary to protect the Kewaunee 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 Michigan.

DATES: The amendment to § 165.T09–109 (b) in this rule is effective on June 14, 2002. Section 165.T09–109, added at 66 FR 52038, October 12, 2001, effective from September 28, 2001, through June

15, 2002, as amended in this rule, is extended in effect through August 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 CGD09–01–138 and are available for inspection or copying at U.S. Coast Guard Marine Safety Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician, Chief David McClintock, U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53402. The telephone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On October 12, 2001, we published a temporary final rule entitled “Security Zone: Lake Michigan, Kewaunee Nuclear Power Plant, WI” in the **Federal Register** (66 FR 52036). The temporary final rule established a temporary security zone in the Captain of the Port Milwaukee zone for the Kewaunee Nuclear Power Plant. This security zone is necessary to protect this nuclear power plant from possible sabotage or other subversive acts, accidents, or possible acts of terrorism.

We are extending the effective period of the temporary final rule so that we can complete a rulemaking entitled “Security Zone; Captain of the Port Milwaukee Zone, Lake Michigan” (docket number CGD09–02–007; 67 FR 19142, April 18, 2002) to establish a permanent security zone for Kewaunee Nuclear Power Plant. Extending the effective date until August 1, 2002 will provide enough time to complete the entire public notice and comment rulemaking prior to establishing permanent security zones in place of the temporary security zones.

We did not publish a notice of proposed rulemaking (NPRM) for this rule and it is being made effective less than 30 days after publication in the **Federal Register**. When we promulgated the September 28th, 2001 rule, we intended to either allow it to expire on June 15, 2002, or to cancel it if we made permanent changes before that date. We published an NPRM on April 18, 2002 to propose permanent security zones for this and another power plant (67 FR 19142). That rulemaking will follow normal notice and comment procedures, and a final rule should be published before August 1, 2002. Continuing the

temporary final rule in effect while the permanent rulemaking is in progress will help ensure the safety of critical infrastructure that may be the subject of subversive activity.

Nuclear power plants are an important means of electrical energy in the region. In addition, they could be a source of severe radiological contamination throughout the region. Therefore, the Coast Guard finds good cause under 5 U.S.C. 553 (b)(B) and (d)(3) for why a notice of proposed rulemaking and opportunity for comment is not required and why this rule will be made effective fewer than 30 days after publication in the **Federal Register**.

Background and Purpose

A temporary security zone is necessary to ensure the security of the Kewaunee 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 Western Lake Michigan commencing from a point on the shoreline at 44°20.85' N, 087°32.1' W; then easterly to 44°20.85' N, 087°31.4' W; then southerly to 44°20.35' N, 087°31.4' W; then westerly to 44°20.35' N, 087°32.1' W; then northerly following the shoreline to the point of origin. 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 Milwaukee 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 Milwaukee (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.

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2. In § 165.T09–109, paragraph (b) is revised to read as follows:

§ 165.T09–109 Security Zone; Lake Michigan, Kewaunee, WI.

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(b) *Effective time and date.* This section is effective from September 28, 2001, through August 1, 2002.

* * * * *

Dated: June 6, 2002.

M.R. DeVries,

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

[FR Doc. 02–15131 Filed 6–12–02; 12:40 pm]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–187]

RIN 2115–AA97

Regulated Navigation Area, Safety and Security Zones; Long Island Sound Marine Inspection and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is extending the effective period of a regulated navigation area (RNA) and certain safety and security zones published January 4, 2002. This change will extend the effective period of the temporary final rule until November 15, 2002, allowing adequate time for informal rulemaking to develop a permanent rule. This rule will continue to regulate the circumstances under which certain vessels may enter, transit or operate