

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.

#### 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, and 160.5; 49 CFR 1.46.

2. Add § 165.T09-506 to read as follows:

#### § 165.T09-506 Security Zone; Lake Erie, Perry, OH.

(a) *Location:* The following area is a temporary security zone: all navigable waters of Lake Erie bound by a line drawn between the following coordinates beginning at 41° 48.187' N, 081° 08.818' W; due north to 41° 48.7' N, 081° 08.818' W; due east to 41° 48.7' N, 081° 08.455' W; due south to the south shore of Lake Erie at 41° 48.231' N, 081° 08.455' W; thence westerly following the shoreline back to the beginning.

(b) *Effective time and date.* This section is effective from 10 a.m. August 1, 2002 until 10 a.m. October 1, 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 Cleveland, or the designated on-scene representative. The designated on-scene representative will be the Patrol Commander who may be contacted on VHF-FM Channel 16.

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

Dated: August 1, 2002.

**L. W. Thomas,**  
Commander, U.S. Coast Guard, Captain of the Port Cleveland.

[FR Doc. 02-20479 Filed 8-12-02; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-01-207]

RIN 2115-AA97

#### Security Zone; Seabrook Nuclear Power Plant, Seabrook, New Hampshire

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule; change in effective period.

**SUMMARY:** The Coast Guard is extending the effective period for the Seabrook Nuclear Power Plant, Seabrook, New Hampshire Security Zone. This change will extend the effective period of this temporary final rule until November 15, 2002, allowing adequate time to continue with informal rulemaking to develop a permanent rule. This rule will continue to close certain land and water areas in the vicinity of the Seabrook Nuclear Power Plant.

**DATES:** The amendment to § 165.T01-207 in this rule is effective August 13, 2002. Section 165.T01-207, added at 66 FR 67487, December 31, 2002, effective December 7, 2001 until June 15, 2002, and extended in effect until August 15, 2002 at 67 FR 30807, May 8, 2002, as amended in this rule is extended in effect until November 15, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine 04101 between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) R. F. Pigeon, Port Operations Department, Marine Safety Office Portland, Maine at (207) 780-3251.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

On December 31, 2001, the Coast Guard published a temporary final rule (TFR) entitled "Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire" in the **Federal Register** (66 FR 67487). The effective period for this rule was from December 7, 2001 until June 15, 2002. The effective period for this rule was extended until August 15, 2002 in a TFR of the same title published in the **Federal Register** on May 8, 2002 (67 FR 30807). We expected the extension of the temporary rule through August 15, 2002, would have provided us enough time to complete the rulemaking process for a

permanent security zone surrounding Seabrook. Now, however, we are extending the effective period of the temporary rule until November 15, 2002, to ensure sufficient time to complete the rulemaking process, for public comment and advanced publication. Continuing the temporary rule in effect while the permanent rulemaking is in progress will ensure the security of the Seabrook Nuclear Power Plant and the maritime and surrounding communities during that period.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. The original temporary final rule was urgently required to protect the plant from subversive activity, sabotage or possible terrorist attacks initiated from waters surrounding the plant. It was anticipated that the Coast Guard would assess the security environment at the end of the effective period to determine whether continuing security precautions were required and, if so, to propose regulations responsive to existing conditions. We have determined the need for continued security regulations does exist. The Coast Guard will utilize the extended effective period of this TFR to complete notice and comment rulemaking in order to develop a permanent regulation tailored to the present and foreseeable security environment within the Captain of the Port, Portland, Maine zone.

Under 5 U.S.C. 553(d)(3), we find that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the original rule were intended to prevent possible terrorist attacks against the Seabrook Nuclear Power Plant and were needed to protect the facility, persons at the facility, the public and the surrounding communities from subversive activity, sabotage or possible terrorist attacks, either from the water or by access to the facility by utilizing public trust lands between the low and high water tide lines.

The Coast Guard published a NPRM entitled "Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire" in the **Federal Register** on July 31, 2002 (67 FR 49643). This NPRM proposes to establish a permanent security zone that is temporarily effective under this rule.

### Background and Purpose

Due to the terrorist attacks on New York City, New York and Washington DC on September 11, 2001 and

continued warnings from national security and intelligence officials that future terrorist attacks are possible, heightened security measures are necessary surrounding the Seabrook Nuclear Power Plant. A temporary security zone was implemented around the Seabrook Nuclear Power Plant to protect against possible damage to the facility from subversive activity, sabotage or terrorist attacks initiated from the surrounding waters. The rule was also implemented to protect persons at the facility, the public and surrounding communities from the catastrophic impact release of nuclear radiation would have on the surrounding area, and to provide the Captain of the Port, Portland, Maine with enforcement options to deal with potential threats to the security of the plant.

There is a continuing need for the protection of the plant. The temporary security zone surrounding the plant is only effective until August 15, 2002. The Coast Guard intends to implement a permanent security zone surrounding the facility. In order to provide continuous protection to the plant until the permanent zone is promulgated, the Coast Guard is extending the effective date of the rule until November 15, 2002. This extension will permit sufficient time to implement a permanent zone through notice and comment rulemaking, while ensuring that there is no lapse in coverage of the facility.

No person or vessel may enter or remain in the prescribed security zone at any time without the permission of the Captain of the Port, Portland, Maine. Each person or vessel in a security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port, Portland, Maine. These regulations were issued under authority contained in 33 U.S.C. 1223, 1225 and 1226.

### Regulatory Evaluation

This temporary final 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). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation will not be significant for several reasons: there is ample room for vessels to navigate around the zone, notifications will be made to the local maritime community and signs will be posted informing the public of the boundaries of the zone.

### 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 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. For the reasons enumerated in the Regulatory Evaluation section above, this security zone 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], the Coast Guard offered to assist small entities in understanding this temporary final rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business, organization or governmental jurisdiction would be affected by this rule, and you have questions concerning its provisions or options for compliance, please call Lieutenant (Junior Grade) R. F. Pigeon, Marine Safety Office, Portland, Maine, at (207) 780-3251.

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 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 action. In particular, the Act addresses actions that may require 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 section 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

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

### 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.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping 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 and 160.5; 49 CFR 1.46.

2. Revise paragraph (b) of § 165.T01-207 to read as follows:

**§ 165.T01-207; Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire.**

\* \* \* \* \*

(b) *Effective period.* This section is effective from December 7, 2001 until November 15, 2002.

\* \* \* \* \*

Dated: August 2, 2002.

**M. P. O'Malley,**

*Commander, U.S. Coast Guard, Captain of the Port, Portland, Maine.*

[FR Doc. 02-20482 Filed 8-12-02; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-02-006]

RIN 2115-AA97

#### Security Zone; Lake Erie, Perry, Ohio

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent security zone on the navigable waters of Lake Erie in the Captain of the Port Zone Cleveland for the Perry Nuclear Power Plant. This security zone is necessary to protect the Perry 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 Erie. **DATES:** This rule is effective August 13, 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 CGD09-02-006 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44114 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at (216) 937-0111.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On May 24, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone; Lake Erie, Perry, OH" in the **Federal Register** (67 FR 36556). We did not receive any letters commenting on the proposed rule. No public hearing was requested, and none was held.

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 permanent security zone established by this rule is smaller in size than the temporary security zone previously in effect. See 66 FR 52043