

### Civil Justice Reform

This proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Security Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to security that may disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the

Instruction an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

### 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 proposes to amend 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(G), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Add § 165.552 to read as follows.

#### § 165.552 Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, New Jersey.

(a) *Location.* The following area is a security zone: starting at the south branch of the Forked River in the vicinity of the Oyster Creek Generation Station, bounded by a line beginning at 39°49'12.0" N, 074°12'13.0" W; thence to 39°48'39.7" N, 074°12'0" W; along the shoreline, thence to 39°48'40.0" N, 074°12'0.3" W; thence to 39°49'11.8" N, 074°12'10.5" W; thence back along the shoreline to the beginning point. All coordinates reference Datum: NAD 1983.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in § 165.33 of this part.

(2) No person or vessel may enter or navigate within this security zone unless authorized to do so by the Coast Guard or designated representative. Any person or vessel authorized to enter the security zone must operate in strict conformance with any directions given by the Coast Guard or designated representative and leave the security zone immediately if the Coast Guard or designated representative so orders.

(3) The Coast Guard or designated representative enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271-4807.

(4) The Captain of the Port will notify the public of any changes in the status

of this security zone by Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22 (157.1 MHz).

(c) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act as a designated representative on his behalf.

Dated: August 7, 2003.

**Jonathan D. Sarubbi,**

*Captain, Coast Guard, Captain of the Port Philadelphia.*

[FR Doc. 03-23503 Filed 9-12-03; 8:45 am]

BILLING CODE 4910-15-P

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05-03-112]

RIN 1625-AA00

#### Security Zone; Peach Bottom Atomic Power Station, Susquehanna River, York County, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing a permanent security zone on the waters adjacent to the Peach Bottom Atomic Power Station. This would protect the safety and security of the plant from subversive activity, sabotage, or terrorist attacks initiated from surrounding waters. This action would close water areas around the plant.

**DATES:** Comments and related material must reach the Coast Guard on or before November 14, 2003.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania, 19147. The Marine Safety Office Philadelphia Waterways Management Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above mentioned office between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Kevin Sligh or

Lieutenant Junior Grade Toussaint Alston, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-03-112), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Marine Safety Office Philadelphia, Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

Terrorist attacks on September 11, 2001, inflicted catastrophic human casualties and property damage. These attacks highlighted the terrorists' ability and desire to utilize multiple means in different geographic areas to increase their opportunities to successfully carry out their mission, thereby maximizing destruction using multiple terrorist acts.

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. The threat of maritime attacks is real as evidenced by the October 2002 attack on a tank vessel off the coast of Yemen and the prior attack on the USS COLE. These attacks manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September, 11, 2001 attacks and that

such disturbances continue to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02-07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD more recently issued Advisory 03-01 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

Due to increased awareness that future terrorist attacks are possible, the Coast Guard as lead federal agency for maritime homeland security, has determined that the Captain of the Port must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. A security zone is a tool available to the Coast Guard that may be used to limit vessel traffic in a specific area to help protect waterfront facilities from damage, injury, or terrorist attack.

On June 4, 2003, we published a temporary final rule entitled, "Security Zone; Peach Bottom Atomic Power Station, Susquehanna River, York County, Pennsylvania," in the **Federal Register** (68 FR 33388). The temporary final rule designates the waters of the Susquehanna River in the vicinity of the Peach Bottom Atomic Power Station a security zone. No person or vessel may enter or navigate within this security zone without the permission of the Coast Guard. We propose to make the security zone in this area permanent.

##### Discussion of Proposed Rule

This NPRM proposes to place a permanent security zone around critical infrastructure at the Peach Bottom Atomic Power Station on the Susquehanna River, York County, Pennsylvania. No person or vessel would be able to enter or remain in the prescribed security zone without the

permission of the Captain of the Port, Philadelphia, PA or designated representative. Federal, state, and local agencies would assist the Coast Guard in the enforcement of this proposed rule.

##### Regulatory Evaluation

This proposed 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 Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: owners or operators of fishing vessels and recreational vessels intending to transit portions of the Susquehanna River.

This security zone would not have a significant impact on a substantial number of small entities for the following reasons: the restrictions affect only a limited area and vessel traffic could pass safely around the security zone. Additionally, the opportunity to engage in recreational and charter fishing outside the geographical limits of the security zone would not be disrupted.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it

qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed 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 Lieutenant Junior Grade Kevin Sligh or Lieutenant Junior Grade Toussaint Alston, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

#### Collection of Information

This proposed 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 proposed 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 proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Security Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to security that may disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule. Comments on this section will be considered before we

make the final decision on whether to categorically exclude this rule from further environmental review.

#### 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 proposes to amend 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(G), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Add § 165.554 to read as follows:

#### § 165.550 Security Zone; Peach Bottom Atomic Power Station, Susquehanna River, York County, Pennsylvania.

(a) *Location.* The following area is a security zone: the waters of the Susquehanna River in the vicinity of the Peach Bottom Atomic Power Station bounded by a line drawn from a beginning point located at 39°45'05.26" N, 076°15'43.64" W; thence to 39°45'36.36" N, 076°16'08.93" W; thence to 39°45'38.72" N, 076°15'57.00" W; thence to 39°45'09.60" N, 076°15'35.31" W; thence back to the beginning point at 39°45'05.26" N, 076°15'43.64" W. All coordinates reference Datum: NAD 1983.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in § 165.33 of this part.

(2) No person or vessel may enter or navigate within this security zone unless authorized to do so by the Coast Guard or designated representative. Any person or vessel authorized to enter the security zone must operate in strict conformance with any directions given by the Coast Guard or designated representative and leave the security zone immediately if the Coast Guard or designated representative so orders.

(3) The Coast Guard or designated representative enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271-4807.

(4) The Captain of the Port will notify the public of any changes in the status of this security zone by Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22 (157.1 MHz).

(c) *Definitions.* For the purposes of this section, *Captain of the Port* means

the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act as a designated representative on his behalf.

Dated: August 7, 2003.

**Jonathan D. Sarubbi,**

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

[FR Doc. 03-23501 Filed 9-12-03; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-03-113]

RIN 1625-AA00

#### **Security Zone; Salem and Hope Creek Generation Stations, Delaware River, Salem County, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing a permanent security zone on the waters adjacent to the Salem and Hope Creek Generation Stations. This would protect the safety and security of the plants from subversive activity, sabotage, or terrorist attacks initiated from surrounding waters. This action would close water areas around the plants.

**DATES:** Comments and related material must reach the Coast Guard on or before November 14, 2003.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania 19147. The Marine Safety Office Philadelphia Waterways Management Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above mentioned office between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Kevin Sligh or Lieutenant Junior Grade Toussaint Alston, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

## SUPPLEMENTARY INFORMATION:

### Regulatory Information

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-03-113), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Marine Safety Office Philadelphia, Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Background and Purpose

Terrorist attacks on September 11, 2001, inflicted catastrophic human casualties and property damage. These attacks highlighted the terrorists' ability and desire to utilize multiple means in different geographic areas to increase their opportunities to successfully carry out their mission, thereby maximizing destruction using multiple terrorist acts.

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia, and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. The threat of maritime attacks is real as evidenced by the October 2002 attack on a tank vessel off the coast of Yemen and the prior attack on the USS COLE. These attacks manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September, 11, 2001 attacks and that such disturbances continue to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to

Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02-07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD more recently issued Advisory 03-01 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

Due to increased awareness that future terrorist attacks are possible, the Coast Guard as lead federal agency for maritime homeland security, has determined that the Captain of the Port must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. A Security Zone is a tool available to the Coast Guard that may be used to limit vessel traffic in a specific area to help protect waterfront facilities from damage, injury, or terrorist attack.

On June 3, 2003, we published a temporary final rule entitled, "Security Zone; Salem and Hope Creek Generation Stations, Delaware River, Salem County, NJ," in the **Federal Register** (68 FR 32996). The temporary final rule designates the waters of the Delaware River in the vicinity of the Salem and Hope Creek Generation Stations a security zone. No person or vessel may enter or navigate within this security zone without the permission of the Coast Guard. We propose to make the security zone in this area permanent.

### Discussion of Proposed Rule

This NPRM proposes to place a permanent security zone around critical infrastructure at the Salem-Hope Generation Stations on the Delaware River in Salem County, New Jersey. No person or vessel would be able to enter or remain in the prescribed security zone without the permission of the Captain of the Port, Philadelphia, PA, or designated representative. Federal, state, and local agencies would assist the