

**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—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. Temporary § 165.T05–092 is reinstated and revised to read as follows:

**§ 165.T05–093 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 point located at 39°45'36.36" N, 076°16'08.93" W to 39°45'38.72" N, 076°15'57.00" W, thence to 39°45'28.95" N, 076°15'49.74" W, thence to 39°45'28.20" N, 076°16'02.24" 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 16. The Captain of the Port can be contacted at (215) 271–4940.

(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 16.

(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.

(d) *Effective period.* This section is effective from 5 p.m. (EDT) on May 13, 2003, through 11:59 p.m. EST on February 29, 2004.

Dated: January 16, 2004.

**Jonathan D. Sarubbi,**

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

[FR Doc. 04–2744 Filed 2–9–04; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

**[COTP Philadelphia 03–007]**

**RIN 1625–AA00**

**Security Zone; Three Mile Island Generating Station, Susquehanna River, Dauphin County, PA**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard is continuing the effective period of the temporary security zone on the waters adjacent to the Three Mile Island Generating Station. This will protect the safety and security of the plants from subversive activity, sabotage, or terrorist attacks initiated from surrounding waters. This action will close water areas around the generating station. **DATES:** Effective January 16, 2004, § 165.T05–093, originally added at 68 FR 33399, June 4, 2003, effective from 5 p.m. e.d.t. on May 13, 2003, to 5 p.m. e.s.t. on January 24, 2004, is reinstated and is effective through 11:59 p.m. (e.s.t.) on February 29, 2004.

**ADDRESSES:** Documents as indicated in this preamble are available as part of docket COTP Philadelphia 03–007 for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania, 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this

rule. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Based upon the warnings from national security and intelligence personnel, this rule is urgently required to protect the plant from subversive activity, sabotage or possible terrorist attacks initiated from the waters surrounding the plants.

Delaying the effective date of the rule would be contrary to the public interest, since immediate action is needed to continue to protect the persons at the facilities, the public and surrounding communities from the release of nuclear radiation. This security zone should have minimal impact on vessel transits because the security zone does not block the channel.

On September 16, 2003, we published a notice of proposed rulemaking (68 FR 54177) to create a permanent security zone in the same area this temporary final rule covers. It is taking longer to resolve issues related to the final rule than originally expected at the time the first temporary final rule was issued (68 FR 33399, June 4, 2003). Our extension of the effective period of the temporary security zone is intended to provide the Coast Guard with enough time to complete the rulemaking for a permanent zone without an interruption in the protection provided at the site by the temporary security zone.

**Background and Purpose**

Due to the continued warnings from national security and intelligence officials that future terrorist attacks are possible, such as those launched against New York and Washington, DC, on September 11, 2001, heightened security measures are necessary for the area surrounding the Three Mile Island Generating Station. This rule will provide the Captain of the Port Philadelphia with enforcement options to deal with potential threats to the security of the plants. As noted, the Coast Guard has proposed to implement a permanent security zone surrounding the plants.

**Discussion of Rule**

This temporary rule will extend the effective period of the security zone from 5 p.m. (e.s.t.) on January 24, 2004, to 11:59 p.m. (e.s.t.) on February 29, 2004. 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, Philadelphia, Pennsylvania or designated representative. Federal, State, and local

agencies may assist the Coast Guard in the enforcement of this rule.

### 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 Homeland Security (DHS).

The primary impact of this rule will be on vessels wishing to transit the affected waterway. Although this rule restricts traffic from freely transiting portions of the Susquehanna River, that restriction affects only a limited area and will be well publicized to allow mariners to make alternative plans.

### 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.

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

The rule will not have a significant impact on a substantial number of small entities for the following reasons: the restrictions affect only a limited area and traffic will be allowed to transit through the zone with permission of the Coast Guard or designated representative. The opportunity to engage in recreational and charter fishing outside the geographical limits of the security zone will not be disrupted. Therefore, this regulation should have a negligible impact on recreational and charter fishing activity.

### 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 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

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 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 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 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

We have analyzed this 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 Commandant Instruction M16475.1D, from further environmental documentation.

A final "Environmental Analysis Checklist" and a final "Categorical Exclusion Determination" will be available in the docket 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—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. Section 165.T05–093 is reinstated and revised to read as follows:

### § 165.T05–093 Security Zone; Three Mile Island Generating 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 Three Mile Island Generating Station bounded by a line drawn from a point located at 40°09'14.74" N, 076°43'40.77" W to 40°09'14.74" N, 076°43'42.22" W, thence to 40°09'16.67" N, 076°43'42.22" W, thence to 40°09'16.67" N, 076°43'40.77" 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.

(d) *Effective period.* This section is effective from 5 p.m. (EDT) on May 13, 2003, through 11:59 p.m. (EST) on February 29, 2004.

Dated: January 16, 2004.

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

[FR Doc. 04–2743 Filed 2–9–04; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05–04–011]

RIN 1625–AA00

### Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing all waters surrounding P/V MAASDAM, to ensure the security of the vessel during inbound and outbound transits in the Port of Hampton Roads, and while the vessel is berthed at Nauticus International Terminal. The security zone will extend in a 500-yard radius around P/V MAASDAM and require that all vessels transiting within 500 yards of P/V MAASDAM operate only at the minimum speed necessary to maintain course. No vessels are allowed within 100 yards of P/V MAASDAM without authorization by the Captain of the Port, Hampton Roads, or his designated representative.

**DATES:** This rule is effective from January 20, 2004, to April 24, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–04–011 and are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Suite 700, Norfolk, Virginia, 23510, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Mike Dolan, project officer, USCG Marine Safety Office Hampton Roads, at (757) 668–5590.

#### 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. The Holland America cruise line only recently finalized arrangements with

Federal and local agencies to allow the P/V MAASDAM to conduct regular passenger cruises from Norfolk. As a result, the Coast Guard received the final schedule for the MAASDAM in January 2004. Coast Guard policy dictates that the Captain of the Port will provide for the security of high-capacity passenger vessels, and this security zone is necessary for that purpose.

Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect this vessel from potential security threats. For similar reasons, 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

Following terrorist attacks on the United States in September 2001, there is a heightened awareness that vessels or persons could launch subversive activity against passenger ships. These regulations are necessary to protect the vessel, its passengers, and its crew from these potential threats. The Coast Guard is establishing a temporary security zone to ensure the vessel's safe inbound and outbound transits, and to protect the vessel while moored at Nauticus International Terminal.

##### Discussion of Rule

The Coast Guard is establishing temporary security zones to ensure safe transits and port calls for the P/V MAASDAM. The security zones will be activated while the P/V MAASDAM transits in the Port of Hampton Roads, and while it is berthed at Nauticus International Terminal. This rule is effective from January 20, 2004, to April 24, 2004. The security zone will extend in a 500-yard radius around P/V MAASDAM. All vessels within 500 yards must operate only at the minimum speed necessary to maintain course. No vessels are allowed within 100 yards of P/V MAASDAM without authorization by the Captain of the Port, Hampton Roads, or his designated representative. This rule will provide for increased security of the vessel and other vessels transiting in the area, and will allow the uninterrupted flow of commerce in the Port of Hampton Roads. Public notifications will be made prior to the transit via marine information broadcasts.

##### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory