

Indian Tribal Governments

This temporary 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 temporary 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 temporary final rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.IC, this temporary final rule is categorically excluded from further environmental documentation. This temporary rule seeks to modify a well-established Regulated Navigation Area, and will be in effect for 6 months. 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 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 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. From December 20, 2002, until June 15, 2003, in § 165.501, temporarily suspend paragraph (a)(1) and add new

paragraphs (a)(13), (d)(15) and (d)(16) to read as follows:

165.501 Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters-regulated navigation area.

(a) * * *

(1) A line drawn due east from the mean low water mark at the North Carolina/Virginia border at latitude 36°33'03" N, longitude 75°52'00" W, to the Territorial Seas boundary line at latitude 36°33'05" N, longitude 75°36'51" W, thence generally northeastward along the Territorial Seas boundary line to latitude 38°01'39" N, longitude 74°57'18" W, thence due west to the mean low water mark at the Maryland/Virginia border at latitude 38°01'39" N, longitude 75°14'30" W.

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(d) * * *

(15) *Port Security Requirements.* No vessel in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons (combined), shall enter the Regulated Navigation Area, move within the Area, or be present within the Area unless it complies with the following requirements.

(i) Obtain authorization to enter the Regulated Navigation Area from the Captain of the Port or his representative at least thirty minutes prior to entering the Regulated Navigation Area. All vessels entering or remaining in the Area may be subject to a Coast Guard boarding.

(ii) Follow all instructions issued by the Captain of the Port or his representative.

(iii) Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without presenting valid photo identification.

(iv) Report any departure from or movement within the Regulated Navigation Area to the Captain of the Port or his representative at least 30 minutes prior to getting underway.

(v) Contact the Captain of the Port or his representative on VHF-FM channel 13 or 16, or by calling (757) 444-5209, (757) 444-5210, or (757) 441-3298

(vi) In addition to the authorities listed in this part, this paragraph is promulgated under the authority under 33 U.S.C. 1226.

(16) For purposes of the port security requirements in paragraph (d)(15) of this section, the *Captain of the Port or his representative* means any official designated by the Captain of the Port including, but not limited to, any Coast Guard patrol vessel. All patrol vessels

shall display the Coast Guard Ensign at all times when underway.

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Dated: December 20, 2002.

J. D. Hull,

Vice Admiral, Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-02-132]

RIN 2115-AA97

Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent safety and security zones around the Indian Point Nuclear Power Station (IPNPS), all commercial waterfront facilities, Liquefied Hazardous Gas (LHG) Facilities on the Arthur Kill; moored or anchored U.S. Coast Guard vessels; Coast Guard Stations New York, Sandy Hook, and Kings Point and Aids to Navigation Team New York; Ellis and Liberty Islands; all bridge piers and abutments, and overhead power cable towers, piers and abutments; tunnel ventilators; the New York City Passenger Ship Terminal; a moving safety and security zone around "Designated Vessels" (DVs) deemed by the Captain of the Port to require special protection on account of their hazardous cargo or passenger carrying capacity; and revising the current regulations that establish moving safety zones around Liquefied Petroleum Gas vessels. This action is necessary to safeguard facilities, vessels, public, and the surrounding areas from sabotage, subversive acts, or other threats. The zones will prohibit entry into or movement within these areas without authorization from the Captain of the Port New York.

DATES: This rule is effective January 1, 2003.

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 (CGD01-02-132) and are available for inspection or copying at room 204, Coast Guard Activities New