

York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander W. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354-4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 27, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone" in the **Federal Register** (67 FR 70892). We received no 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 Coast Guard promulgated a temporary final rule (66 FR 51558) establishing safety and security zones in the New York Marine Inspection and Captain of the Port Zones New York immediately following the terrorist attacks of September 11, 2001. The measure was taken to safeguard human life, vessels and waterfront facilities from terrorist attack or sabotage. That temporary final rule was subsequently revised (67 FR 16016; 67 FR 53310) to extend its effective period through December 31, 2002. The temporary final rule has not been burdensome on the maritime public as evidenced by the absence of any response to previous invitations of comments regarding the temporary rule's terms or establishment. This final rule is essentially equivalent to the temporary rule in scope and effect and is necessary for the continued safety and security of the port. Our notice of proposed rulemaking for this final rule notified the public that we anticipated a January 1, 2003 effective date. No public comments or objections to the anticipated effective date were received. Any delay in the effective date of this regulation is unnecessary and contrary to the public interest.

Background and Purpose

On September 11, 2001 three commercial aircraft were hijacked and flown into the World Trade Center in New York City, and the Pentagon, inflicting catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks are likely. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks.

See, 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 President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is endangered by disturbances in international relations of United States that have existed since the terrorist attacks on the United States and such disturbances continue to endanger such relations. *Executive Order 13273 of August 21, 2002, Further Amending Executive Order 10173, as Amended, Prescribing Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States*, 67 FR 56215 (September 3, 2002).

Immediately following the September 11th attacks, we published a temporary final rule (66 FR 51558) that established a temporary regulated navigation area, and safety and security zones in the New York Marine Inspection and Captain of the Port New York Zones. These measures were taken to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts. That temporary final rule was subsequently revised (67 FR 16016; 67 FR 53310) to extend its effective period through December 31, 2002.

The Coast Guard is establishing permanent safety and security zones throughout the New York Marine Inspection and Captain of the Port Zones as part of a comprehensive, port security regime designed to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts. Due to continued heightened security concerns, the permanent safety and security zones are necessary to provide for the safety of the port and ensure that vessels, facilities, bridges, overhead power cables, or tunnel ventilators, are not used as targets of, or platforms for terrorist attacks. These zones would restrict entry into or movement within portions of the New York Marine Inspection and Captain of the Port Zones.

Discussion of Proposed Rule

This rule establishes the following safety and security zones:

Indian Point Nuclear Power Station (IPNPS)

The Coast Guard is establishing a permanent safety and security zone in all waters of the Hudson River within a 300-yard radius of the IPNPS pier in

approximate position 41°16'12.4" N, 073°57'16.2" W. The zone is necessary to protect the IPNPS, others in the maritime community, and the surrounding communities from subversive or terrorist attack against the facility that could potentially cause serious negative impact to vessels, the port, or the environment. Commercial vessels will still be able to transit through the 540 yards between the western boundary of the safety and security zone and Hudson River Lighted Buoy 27 (LLNR 37930), and recreational vessels will still be able to transit through the western 1,115 yards of the 1,415-yard wide Hudson River. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Liquefied Hazardous Gas Vessels (LHG), LHG Facilities, and Designated Vessel (DV) Transits

The Coast Guard is revising the Liquid Petroleum Gas (LPG) vessel safety zone at 33 CFR 165.160. That regulation establishes a 100-yard moving safety zone around any LPG vessel while it transits between Scotland Lighted Horn Buoy S (LLNR 35085) and the Arthur Kill. This revision will establish a safety and security zone to include all waters within the New York Marine Inspection and Captain of the Port Zones within a 200-yard radius of any Liquefied Hazardous Gas (LHG) vessel or LHG facility. We will also establish a moving safety and security zone to include all waters within a 100-yard radius of any "Designated Vessel" (DVs) transiting the New York Marine Inspection and Captain of the Port Zones. DVs include: Vessels certificated to carry 500 or more passengers; vessels carrying government officials or dignitaries requiring protection by the U.S. Secret Service, or other Federal, State, or local law enforcement agency; and barges or ships carrying petroleum products, chemicals, or other hazardous cargo.

These safety and security zones are necessary to protect the LHG vessels, LHG facilities, DVs, their crews and/or passengers, others in the maritime community, and the surrounding communities from subversive or terrorist attack against a vessel or a facility that could potentially cause serious negative impact to human life, the vessels, facilities, the port, or the environment. Safety and security zones are necessary to protect passenger vessels due to their potential as a target of subversive or terrorist attack, which could result in significant casualties.