

Terminal. This action is necessary to provide security for and prevent acts of terrorist against vessels loading or offloading and the State Port Authority Terminal during a military operation. The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via Eagle Island, the Cape Fear River, or the North Carolina State Port Authority Terminal.

DATES: This rule is effective from 8 a.m. EST on June 13, 2003, to 11:59 p.m. EST on December 13, 2003. Comments are due on or before October 14, 2003.

ADDRESSES: Comments and documents indicated in this preamble as being available in the docket are part of docket CGD05-03-073 and will be available for inspection or copying at Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Diego Benavides, Port Security, (910) 772-2232.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments on this temporary rule to our docket listed under **ADDRESSES**. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-03-073), indicate the specific section of this document to which each comments applies, and give the reason for each comment. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and related material received during the comment period and we may change this temporary rule in view of them.

Regulatory Information

The U.S. Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation. The Coast Guard is promulgating these security zone regulations to protect the Wilmington State Port and the surrounding vicinity for reasons directly related to military operations and national security. Based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rulemaking and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation. As stated in our "Request for Comments" section, however, we do encourage you to comment on this currently-effective temporary rule. This temporary security

zone is necessary to provide for the security of the United States.

Background and Purpose

The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via Eagle Island, the Cape Fear River, or the North Carolina State Port Authority terminal.

Discussion of Rule

To provide security for, and prevent acts of terrorism against, vessels loading or offloading and the State Port Authority Terminal during a military operation, the security zone will prevent access to unauthorized persons who may attempt to enter the secure area via the Cape Fear River, the North Carolina State Port Authority terminal, or use Eagle Island as vantage point for surveillance of the secure area. This rule limits access to the regulated area to those vessels and persons authorized to enter and operate within the security zone. The Captain of the Port or her designated representative may authorize access to the security zone. Mariners must contact the control vessel on VHF-FM channel 16 to request access to transit through the regulated area. In addition, the Coast Guard will make notifications via maritime advisories.

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).

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) the COTP or her representative may authorize access to the security zone; (ii) the security zone will be in effect for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the U.S. Coast Guard 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 rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels or vehicles intending to transit or anchor within waters or grounds of the security zone (including the North Carolina State Port Authority Terminal and the southern portion of Eagle Island) encompassed by a line connecting the following points: from South Wilmington Terminal at 34°10'38.394" W, 077°57'16.248" N (Point 1); across Cape Fear River to Southern most entrance of Brunswick River on the West Bank at 34°10'38.052" W, 077°57'43.143" N (Point 2); extending along the West bank of the Brunswick River for approximately 750 yards to 34°10'57.062" W, 077°58'01.342" N (Point 3); proceeding north across the Brunswick River to the east bank at 34°11'04.846" W, 077°58'02.861" N (Point 4); continuing north on the east bank for approximately 5000 yards along Eagle Island to 34°13'17.815" W, 077°58'30.671" N (Point 5), proceeding east to 34°13'19.488" W, 077°58'24.414" N (Point 6); then approximately 1700 yards to 34°13'27.169" W, 077°57'51.753" N (Point 7); proceeding east to 34°13'21.226" W, 077°57'19.264" N (Point 8); then across Cape Fear River to the northeast corner of the Colonial Terminal Pier at 34°13'18.724" W, 077°57'07.401" N (Point 9) 800 yards south of Cape Fear Memorial Bridge; proceeding south along shoreline (east bank) of Cape Fear River for approximately 500 yards; proceeding east inland to Wilmington State Port property line at 34°13'03.196" W, 077°56'52.211" N (Point 10); extending south along Wilmington State Port property line to 34°12'43.409" W, 077°56'50.815" N (Point 11); proceeding to the north entrance of Wilmington State Port at 34°12'28.854" W, 077°57'01.017" N (Point 12); proceeding south along Wilmington State Port property line to 34°12'20.819" W, 077°57'08.871" N (Point 13); continuing south along the Wilmington State Port property line to 34°12'08.164" W, 077°57'08.530" N (Point 14); continuing along State Port property to 34°11'44.426" W, 077°56'55.003" N (Point 15); proceeding south to the main gate of the Wilmington State Port at