

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165****[CGD01-03-020]****RIN 1625-AA00****Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent security zone in the Atlantic Ocean west of the Ambrose to Hudson Canyon Traffic Lane for high interest vessels during emergency situations. This action is necessary to protect the Port of New York/New Jersey against terrorism, sabotage or other subversive acts and incidents of a similar nature during emergency situations onboard high interest vessels. This action is intended to restrict vessel traffic in a portion of the Atlantic Ocean.

DATES: Comments and related material must reach the Coast Guard on or before January 20, 2004.

ADDRESSES: You may mail comments and related material to Waterways Oversight Branch (CGD01-03-020), Coast Guard Activities New York, 212 Coast Guard Drive, room 203, Staten Island, NY 10305. The Waterways Oversight Branch of Coast Guard Activities New York 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 room 203, Coast Guard Activities New 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) 354-4191.

SUPPLEMENTARY INFORMATION:**Request for Comments**

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 (CGD01-03-020), 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 that your submission 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 Waterways Oversight 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 separate notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish a permanent security zone between the Ambrose to Hudson Canyon Traffic Lane and the Barnegat to Ambrose Traffic Lane bound by the following points: 40°21'29.9" N, 073°44'41.0" W, thence to 40°21'04.5" N, 073°45'31.4" W, thence to 40°15'28.3" N, 073°44'13.8" W, thence to 40°15'35.4" N, 073°43'29.8" W, thence to 40°19'21.2" N, 073°42'53.0" W, thence to the point of origin. The security zone would only be used for high interest vessels due to emergency situations onboard the vessel.

On January 31, 2002, a release of MTBE (methyl tertiary-butyl ether) onboard the M/V LEADER required the closure of Anchorage Grounds No. 23-A, 23-B, and 24 in the Narrows. Additionally, from September 11, to September 13, 2002, a radiological anomaly was discovered onboard the M/V PALERMO SENATOR during a vessel boarding. As a result, the vessel was ordered to depart the Port of New York/New Jersey and remain at anchorage for further investigation. To maximize safety, the Captain of the Port New York established a security zone around the anchored vessel.

While these incidents had uneventful conclusions they each posed a significant threat to port infrastructure and the local population. The Coast Guard intends to minimize risk to the Port of New York/New Jersey and the area population by requiring vessels in similar emergency situations to anchor in the proposed security zone while the vessel is inspected and cleared for a safe transit.

Discussion of Proposed Rule

The proposed security zone includes all waters of the Atlantic Ocean between the Ambrose to Hudson Canyon Traffic Lane and the Barnegat to Ambrose Traffic Lane bound by the following points: 40°21'29.9" N, 073°44'41.0" W, thence to 40°21'04.5" N, 073°45'31.4" W, thence to 40°15'28.3" N, 073°44'13.8" W, thence to 40°15'35.4" N, 073°43'29.8" W, thence to 40°19'21.2" N, 073°42'53.0" W, thence to the point of origin. The proposed security zone would prevent vessels from transiting a portion of the Atlantic Ocean and is needed to protect vessel operators from the hazards associated with emergency situations onboard vessels that are not authorized within the Port of New York/New Jersey due to conditions that may be dangerous to the Port and the local population. Marine traffic would still be able to transit around the security zone when it is activated via already established traffic separation schemes. In cases of emergency, vessels transiting in the traffic separation scheme traffic lanes adjacent to the security zone would be authorized to enter the adjacent separation zone between traffic lanes to avoid immediate danger. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this proposed security zone.

The Coast Guard does not know when the security zone would be enforced as the zone would be used only on an as needed basis. Establishing a permanent security zone by notice and comment rulemaking provides the public the opportunity to comment on the proposed zone, location and size. Coast Guard Activities New York would give notice of the enforcement of the security zone by all appropriate means to provide the widest publicity among the affected segments of the public. This proposed rule has been discussed with the Sandy Hook Pilots Association and they do not feel this zone would interfere with the New York Traffic Separation Scheme. Notifications would be made to the local maritime community by the Vessel Traffic Service New York, facsimile, marine information and electronic mail broadcasts, and on the Internet at <http://www.harborops.com>.

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